THE Public Interest

NUMBER 124, SUMMER 1996, PRICE: $6.50

Christian Socialism in Britain

Irwin M. Stelzer

Divorce American Style	***William A. Galston***
What Glass Ceiling?	***Michael Lynch & Katherine Post***
Cleaning Up Superfund	***W. Kip Viscusi & James T. Hamilton***
How Immigration Harms Minorities	***Norman Matloff***
On Justice Clarence Thomas	***Stephen F. Smith***
The Benefits of Marriage	***Steven Flanders***

Freud and the Culture Wars

Yale Kramer

Books In Review:

James Bowman, Jay P. Lefkowitz, Jason W.A. Bertsch, Daniel J. Mahoney, & Morton Keller

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

THE Public Interest

NUMBER 124, SUMMER 1996

CONTENTS

Christian Socialism in Britain	*Irwin M. Stelzer*	3
Divorce American Style	*William A. Galston*	12
What Glass Ceiling?	*Michael Lynch & Katherine Post*	27
Freud and the Culture Wars	*Yale Kramer*	37
Cleaning Up Superfund	*W. Kip Viscusi & James T. Hamilton*	52
How Immigration Harms Minorities	*Norman Matloff*	61
On Justice Clarence Thomas	*Stephen F. Smith*	72
The Benefits of Marriage	*Steven Flanders*	80

Books In Review:

Posthuman Bodies, ed. by Judith Halberstam and Ira Livingston
James Bowman 87

Payback, by Daniel Fischel
Jay P. Lefkowitz 91

Union of Words, by Wayne Fields
Jason W.A. Bertsch 96

Tocqueville and the Nature of Democracy, by Pierre Manent
Daniel J. Mahoney 101

Molding the Good Citizen, by Robert Lerner, et al.
Lies My Teacher Told Me, by James Loewen
Morton Keller 108

Contributors 112

THE PUBLIC INTEREST (ISSN# 0033-3557) is published quarterly by National Affairs, Inc., and appears in Winter, Spring, Summer, and Fall issues. Its office of publication is located at 1112 16th Street, N.W., Suite 530, Washington, DC, 20036. Telephone: (202) 785-8555. If you have problems with your subscription, please call (800) 783-4903. Subscription price: $25 for one year, $42.50 for two years, $60 for three years. Add $3 annually for Canadian and foreign subscriptions (via surface mail). To receive back issues, please send a check for $7.50 per issue to the office of publication. Second-class postage is paid at Washington, D.C., and at additional mailing offices. ©1996 by National Affairs, Inc. Postmaster: Please send all changes of address to *The Public Interest* Subscription Office, Dept. PI, P.O. Box 3000, Denville, N.J., 07834. Articles appearing in this journal are abstracted and indexed in *Reader's Guide, P.A.I.S., Historical Abstracts, ABC Pol Sci, Social Science Index, Sociological Abstracts, Academic Abstracts, Social Science Source*, and *America: History and Life*, and are available on microfilm from University Microfilms International. *The Public Interest* is printed by Cadmus Journal Services.

ELECTRONIC REPRODUCTION PROHIBITED

Editors
Irving Kristol and Nathan Glazer

Publication Committee
Martin Feldstein
Roger Hertog
H. J. Kaplan
Bruce Kovner
Charles Krauthammer
Glenn C. Loury
Daniel P. Moynihan
Charles Murray
Isabel Sawhill
Martin E. Segal
Roger Starr
Irwin M. Stelzer
James Q. Wilson

Executive Editor
Adam Wolfson

Managing Editor
John W. Barry

Assistant Editor
Jason W.A. Bertsch

Assistant to the Editors
Karis Kercher

Editorial Office
1112 16th Street, NW, Suite 530
Washington, DC 20036

Subscription Office
The Public Interest, Department PI
P.O. Box 3000
Denville, NJ 07834

Newsstand Distributors
Bernhard DeBoer, Inc.
113 Centre Street
Nutley, NJ 07110

Ingram Periodicals, Inc.
1226 Heil Quaker Boulevard
La Vergne, TN 37086

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Christian Socialism in Britain

IRWIN M. STELZER

AMERICANS no longer bother much with political developments in Great Britain. True, an IRA bomb set off in London's theater district, near Harrod's department store, or at other sites favored by American tourists, can garner a few paragraphs in the back pages of the *New York Times*, and a visit by Labour party leader Tony Blair to Washington is worth a few minutes on the *Fox Morning News* and some minor coverage in the *Washington Post*. But, ever since the Tories lost their taste for Reaganesque economic and foreign policies, and jettisoned the always-interesting Margaret Thatcher in favor of the relentlessly gray John Major, there is little about British politics that much interests us.

We may be making a serious mistake. For, as we debate efforts by "cultural conservatives" to reintroduce the concepts of "sin" and "the undeserving poor" into the debate over the containment of the welfare state; quake or rejoice—as the case may be—at the emergence of Ralph Reed's Christian

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Coalition as a powerful force in American politics; and wonder whether it is a good or bad thing that political leaders of both parties have decided that they have a role to play in shaping the cultural output of Hollywood, we can benefit from attending to a revolution on the British left: Marx out, Christ in.

Christianity here and abroad

"I am an ecumenical Christian," proclaimed Tony Blair in an extraordinary interview with deputy editor Matthew d'Ancona of the *Sunday Telegraph*, published in its Easter Sunday edition. "Can you imagine an American president or presidential candidate saying that?" asked the esteemed co-editor of this journal. Well, no. Certainly not one on the left or even the center-left of the political spectrum. Though Jimmy Carter worried about lust in his heart, he seems to be *sui generis* among presidents and presidential candidates in that regard (the Democrat who succeeded him appears to have no such concerns). And those on the right who have been or are viable candidates confine their religious impulses to a request that "God bless America."

The difference between the Briton's proclamation and the reticence of his American counterparts cannot be attributed to the raw arithmetic of differences in the electoral makeup of our two countries. After all, Jews, an important American constituency that might find such a remark offensive, are consequential, too, in Great Britain. One out of every five voters in Margaret Thatcher's constituency was Jewish, as were five of her cabinet ministers—more "Estonians" than Etonians, sniffed Harold Macmillan, by then the Earl of Stockton. And Muslims are an even more potent electoral force in Britain, especially in the Labour party, than they are in America. So the difference between Blair's open embrace of Christianity—his willingness to proclaim that his concept of an individual's duty to serve the greater good of the community is "a principle the Church celebrates in the sacrament of communion"—and the more secular formulations offered by American candidates cannot be written off to political expedience.

The differences, instead, lie in the history of the British Labour party; the current efforts of its so-called modernizers

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

to relieve themselves of the weighty burden of the party's Marxist baggage; the different attitudes of the British and American press toward religion and its role in politics; the American constitutional separation of church and state; and the more ecumenical and non-evangelical nature of Blair's Christianity.

Labour's religious roots

The Labour party had its roots in the nonconformist Methodist Church, the rival to the Church of England, the latter better once known as "the Tory Party at prayer." Gertrude Himmelfarb, in her classic *Poverty and Compassion*, points out that "the generic form of Christian socialism ... was present among all the late-Victorian socialist groups, including the most radical of them." She notes that Keir Hardie, the late nineteenth-century trade unionist who became the first leader of the parliamentary Labour party early in this century, described socialism as "the embodiment of Christianity in our industrial system." And, Himmelfarb adds, however much these socialist reformers tried to secularize religion, "that transference was rarely complete. What remained, for many socialists, was a spirit that transcended man, a moral idea rooted in religion which provided the ultimate rationale for socialism."

This strand in Labour-party thinking survived in even its most devoted left-wingers. Tony Benn, the patrician who forswore his title as Viscount Stansgate after his election to the House of Commons in order to become eligible to take his seat and represent the far left of his party, recently wrote of "a bridge that connects Christian teaching with humanism and democratic socialism." But this Tony is no Blair. In his 1980 book, *Arguments for Socialism*, he writes that "the teachings of Jesus are not necessarily weakened by being secularized."

Blair, in contrast, has room for Christ in his Christianity. And he creates that space, in part, by displacing the foremost god in the pantheon of his party's left, Karl Marx. "Christianity helped to inspire my rejection of Marxism," Blair says, and so he brings his party—if his more leftish troops do indeed follow him—full circle. The dissenting Methodist chapels from which the Labour party may be said to have sprung gave way to the reading room of the British Museum as the place of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

inspiration for the Labour party, only to return to center stage with the appearance of a modern reformer, its present leader.

A Christian public square

Labour's self-styled modernizers, led by Blair, set about to make their party electable. In their view, so long as Labour insisted that it would socialize the means of production and distribution, redistribute wealth by levying confiscatory taxes on the rich, frown on entrepreneurs while smiling on government bureaucrats and trade union barons, it would be consigned to opposition status. So they fought for, and won, a reduction in the voting power of the trade unions in party matters; they revised the party's constitution to eliminate its call for state takeover of basic industries; they even outflanked the left-leaning parliamentary party by effectively transferring authority to approve the party's election manifesto (a "platform," in American terms, but somewhat more binding) from it to the entire party membership, now consisting of tens of thousands of middle-class English folk who have, of late, been attracted to the Labour party by Blair's unthreatening manner and his professed moderation in economic and social matters.

In his battle with the still-potent left of the Labour party, Blair has had to break with Christian socialism, as the left understands it, and replace it with another variant. As Matthew d'Ancona pointed out after his now-famous conversation with Blair, "The principal causes of Christian socialists in this century have been pacifism and common ownership." Blair has forsworn his earlier espousal of unilateral nuclear disarmament and written common ownership out of his party's constitution. Nevertheless, he lays claim to the title "Christian socialist." As d'Ancona puts it, new Labour describes Jesus as a "modernizer," rejecting old Labour's claim that He was a "revolutionary."

This effort to replace Marx with Christ, to establish a religious-ethical basis for new Labour's socialism, meets a practical need: the legitimization of state action to improve the lot of the less fortunate by creating in each individual a sense of community, of being his brother's keeper. But it is not a cynical dash for respectability in a world in which Marxism is seen as a failed god; no politician would risk the wrath of his

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

constituents by, as Blair has done, sending his children to Catholic school instead of to the state-run school in Blair's left-wing borough of Islington if he did not hold some deep convictions about the importance of religion, discipline, and a rigorous education. But whether this newly rediscovered Christian socialism will, in practice, prove very different from that old-time redistributionist religion, whether it is nothing more than the secular, and excruciatingly elusive, "communitarianism" that Amitai Etzioni has been pushing on Blair, I leave to the theologians and the philosophers to debate. One thing is clear, however: The leader of Britain's left-wing party finds it acceptable, politically, to profess his Christianity and to look to the New and Old Testaments for a central core around which to develop his political program.

Of necessity, that requires that he adopt a cultural stance not very different from that of America's Christian Coalition, at least as it relates to what we have come to call "family values." The Tories took a stab at being the party that would help Britain "return to basics." That effort collapsed when several Tory ministers were discovered by the ever-vigilant British tabloid press in circumstances that could not be described as models of familial probity. Into the ethical breach leaped Blair. Being a fan of both Christ and Himmelfarb, he has unashamedly reintroduced the concept of "sin" into political discourse:

> "Sin" as a word conjures up images of strait-laced piety and frowning disapproval. It seems old-fashioned today. Yet the concept is simple and important. In theological terms it is alienation from God. In everyday terms, it is the acknowledgment of right and wrong. It is the rejection of a purely libertarian ethos.

Blair goes on to call for the reestablishment of "common norms of conduct,... boundaries ..., judgments of good and bad." He does this as part of a serious and unhysterical discussion in the press of the role of religion in political life. And the conservatives—Tory partisans such as Simon Heffer—respond, "What makes Blair think his party has a monopoly on Christianity?" To Heffer, socialism denies Christianity by "transferring the responsibility for compassion and charity from the individual to the state," and Blair runs the risk of loving his neighbor a bit too much. "Christianity," says Heffer in re-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

sponse to Blair's interview, "is not only about feeling sorry for people." It includes not simply rewarding good behavior but punishing evil "in the most salutary way."

Again, I leave to those more expert than I a decision as to which party, if any, can legitimately claim to be the better representative of Christian values. I would simply observe that both major political parties unashamedly seek legitimacy and voter approval by claiming to be Christian, and the press treats that debate with seriousness.

Press blackout

The American press, of course, treats religious issues somewhat differently. One need not be a member of the Christian Coalition, or even a Christian, or even a believer, to notice that the urban (they like to think "urbane"), hip, secular, liberal members of the fourth estate are somewhat contemptuous of politicians who seek to justify their positions by recourse to an authority higher even than the political editor of a newspaper. A Martian reading the American press could be forgiven for believing that all members of the Christian right live in trailer parks in the South (except for those who pop up in strange places like Iowa and New Hampshire to vote for Pat Buchanan) and that "religious" and "fanatic" are synonyms.

For our media depict politicians who are truly and openly devout as dangerous, partly because they respond to pressures that the Washington press corps does not comprehend, partly because they are likely to be on the wrong side on the question of abortion, and partly because the cultural views of religious legislators are out of tune with those of most reporters. For these reasons, and because few American reporters have educations that enable them to engage an issue such as religion in the way that Heffer and d'Ancona can, we do not see on this side of the Atlantic robust discussions of Christianity's relation to the political creeds of our two parties.

Indeed, d'Ancona recently and unintentionally shed some light on just what makes the American press so squeamish about treating religion as a serious force in this nation's political life. In his recently published *The Jesus Papyrus*, coauthored with historian Carsten Peter Thiede, d'Ancona says:

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

> The New Testament has become an object of cultural suspicion.... Today ... some scholars and writers will go to almost any lengths to avoid the charge of credulity.... The post-Enlightenment world has no stakes at which it burns the heretics who dare to question its orthodoxy. It has instead the pressures of the academy, of media opinion and of a disapproving cultural elite.

The authors may not know it, but any complaint they may have about their country's media applies with much greater force on this side of the Atlantic. And politicians, not eager to be made to look foolish by the press, are consequently unlikely to give the sort of interview that brought Blair's views into British homes on Easter Sunday. They go through the paces, provide photo ops at selected church services, and woo Christian voters with Republican anti-abortion rhetoric or with Democratic promises to reduce the flow of violent (abhorrent to the Left) or sexually explicit (abhorrent to the Right) materials. Any more than that, the American press has difficulty understanding and will not discuss. Politicians—or most of them—quite naturally follow suit.

The high wall of separation

Not all of the differences between British and American politicians on religious issues can be attributed to differences in media coverage. There is, in addition, the fact that our Constitution mandates a separation between church and state while Britain has an established church, representatives of which are de facto appointees of the government. Whether our courts have gone too far in separating church from state is a debate for another time; suffice it to say that even the most extreme proponents of school prayer, the use of public facilities for religious purposes, and the posting of religious messages in schools and other public places do not propose to eliminate the principle that freedom is best protected by some separation of church and state.

Britain has no such constitutional separation. Quite the opposite. The sovereign is the head of the Church of England. The Prime Minister appoints its Bishops (technically, by recommending candidates to the sovereign), who sit, be-robed, in the House of Lords and can vote on all legislation that comes before the Parliament. British churchmen are socially and po-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

litically active—some say hyperactive—and quite left-leaning. Only one-quarter of the bishops or clergy voted Conservative in 1992, according to a survey of more than 500 members of the General Synod of the Church of England. The bishops put adultery, abortion, euthanasia, and homosexuality at the bottom of their list of important issues, and Third World problems, unemployment, and the environment at the top.

In short, it is quite proper for a British Prime Minister to involve himself in the affairs of the Church, through his appointment powers, and equally proper for the Church to involve itself in the political life of Britain. Some Tories may moan every time some prominent cleric voices his leftish views on social and political matters, but they cannot deny that the churchman, who may well be called upon to vote on the same issues in Parliament, has a right to voice his political views.

Compare this acceptance of religious authority in Britain to America. American Catholic bishops do speak out on issues of importance to them, as do the clergy of other faiths. And they do so from the same leftish vantage point as their British brethren, though, in the case of Catholics, abortion and homosexuality are also addressed. But the force of their remarks is always limited by the suspicion that this may be a sermon too far, one that takes the cleric out of the area in which his authority is recognized and across the constitutional line that separates church from state. So, although American politicians may feel the need to pay their respects to the views of churchmen-as-leaders-of-a-voting-bloc, they are under far less compulsion to heed their words merely because they are spoken to by the representatives of a church. This, despite the fact that a much larger portion of Americans than Britons regularly attend church.

Evangelical politics

Finally, some of the difference between British reaction to Blair's open discussion of the role Christianity plays in the on-going development of his political philosophy, and the likely reaction of Americans to a similar display of feeling by an American politician, is attributable to the lesser role of evangelical proselytizing in Britain. Blair threatens no one by stating that he is a Christian. Were an American president to

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

make such a lengthy and prominent statement of his beliefs, voters might see this as more than a personal statement. After all, leaders of the religious right in this country have not been content to follow what they see as the preachings of Christ in their own lives. Instead of refusing to attend movies they find offensive, or clicking off television shows they find excessively violent or sexually explicit, they aim to put pressure on Hollywood to cease production of such films and shows. Instead of merely eschewing abortions, they have sought to prevent others from availing themselves of that procedure. Instead of merely voting their own consciences, they have formed voting blocs to assure that they will be disproportionately represented in various elections, especially in presidential primaries.

None of these activities is beyond the constitutional pale. But they do create an uneasiness among the less religiously committed and among non-Christians, a feeling that they are in danger of having views imposed upon them which they will find disagreeable. Strangely, at least to an American, no such fear exists in Britain, despite the fact that the country has an officially sanctioned, establishment church that can influence who will be the next King of England, that can instruct its representatives in Parliament how to vote, and that has quite happily elevated political goals over those more traditionally associated with religious institutions. Perhaps the British rely on the good manners of their Church leaders, or count on their ineffectuality. Or perhaps they have no fear of established religion because they have lived with it, in freedom, for so long. But, whatever the reason, they do not find the intermingling of politics and religion by their leaders as great a threat to ecumenical pluralism as do some Americans, particularly the young, urban elite who dominate the media.

This greater level of comfort with an overt role for religion in the political life of the nation is, then, another reason why Blair can trumpet his Christianity, the British press can discuss his position calmly, and the electorate can remain unalarmed. That couldn't happen here. Nor, if it did, would it be the Left that opens the debate on the terms laid down by Blair. It would be, instead—indeed, in a somewhat different sense it has already been—the Right in America that talks about Christ, for politics' sake.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Divorce American style

WILLIAM A. GALSTON

JAMES and Janne Hayes were married in 1941 as 19-year-old college students. They had four children. With one brief exception, Janne Hayes never worked outside the home. After 25 years of marriage, she filed for divorce under California's fault-based divorce code and was awarded the family home, custody of the two minor children, $650 per month in alimony until death or remarriage, and $175 per month in child support until the children reached adulthood.

In 1972, James Hayes filed a petition to end his financial obligations to his wife on the grounds that his financial condition had changed. (He had also remarried.) To bolster his claim, he quoted from the California Assembly Judiciary Committee Report on the 1969 California no-fault statute, enthusiastically signed into law by then-Governor Ronald Reagan:

> When our divorce law was originally drawn, a [woman's] role in society was almost totally that of mother and homemaker. She could not even vote. Today, increasing numbers of married women

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

> are employed, even in the professions. In addition, they have long been accorded full civil rights. Their approaching equality with the male should be reflected in the law governing marriage dissolution and in the decisions of courts with respect to matters incident to dissolution.

James Hayes prevailed. Child support was ended and alimony cut by more than half. A year later, he was back in court and won another reduction in alimony. The judge told Janne Hayes to get a job.

An oft-told tale, but with a twist: Assemblyman Hayes was the chairman of the California Senate Judiciary Committee that drafted the no-fault statute and wrote the report he subsequently quoted in his brief. His was not an isolated case. A few years earlier, then-Governor Edmund G. Brown established a Commission on the Family, which recommended the elimination of fault as grounds for divorce. Of the 15 citizens who testified before the commission, 14 were men; 10 were divorced.

The no-fault divorce revolution of the past quarter century was not in any simple sense the product of a male conspiracy. Many women's groups, lawyers, judges, academics, and family-practice professionals strongly favored this change, on the ground that it was needed to end (as one supporter put it) "the hypocrisy of strict divorce laws administered by a lenient process." And public opinion began swinging toward more relaxed laws in the mid 1960s.

The benefits of no-fault divorce were immediate, especially for men seeking an easier exit from long-established marriages. An understanding of the costs emerged more slowly, through painful experience and the gradual accretion of research. The principal victims have been women in long-established marriages, along with minor children. There has also been a broader casualty: the idea of marriage as a presumptively permanent relationship—as a structure of incentives for individuals to contribute to the well-being of the family, and a framework of reasonable expectations of reciprocal benefits over the lifetime of the partnership. And pervasive divorce has imposed large costs on society as a whole. For example, children's post-divorce psychological and behavioral problems have multiplied the challenges facing teaching, and jurisdictions at ev-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ery level of the federal system have had to invest huge sums in child-support enforcement.

Today, public opinion is swinging back toward more restrictive divorce laws. (Support for tougher laws is strong among young adults, many of whom directly felt the consequences of divorce as children.) Proposals to roll back no-fault are already under consideration in the legislatures of Iowa and Michigan, with more states likely to follow.

The casualties of divorce

We have good reason to be worried about the current state of marriage and divorce in America. To be sure, the rate of divorce has been trending upward fitfully for more than a century. Still, the rate of divorce in 1960 was no higher than it had been in 1940, and not much higher than in 1920. (There was a spike right after World War II, but it quickly subsided.) Then, between 1960 and 1980, the rate of divorce surged by nearly 250 percent. Since then, it has stabilized, but at a rate that is the highest by far in the industrialized world. About half of all marriages undertaken today are likely to end in divorce. Forty percent of all first marriages will suffer that fate, compared to only 16 percent in 1960. Upwards of 60 percent of all remarriages will not endure.

Three-fifths of all divorces involve minor children. The number of children directly touched by divorce each year has doubled, from 485,000 in 1966 to about one million today. The percentage of children living in mother-only households (headed by never-married as well as divorced women) has also more than doubled. About 40 percent of children living in such households have not seen their fathers during the past year; only one in six sees them more than once a week.

Children typically encounter difficulties in the wake of divorce. The conventional wisdom is that these negative effects are attributable to two factors that are distinguishable from divorce itself: steep income losses after divorce and intra-family conflicts before divorce. This is not entirely wrong: Pre-divorce conflict accounts for about half the observed post-divorce difficulties for boys and somewhat less than half for girls. And economic decline accounts for about half the remaining damage.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

But the conventional wisdom of the 1970s and 1980s is not the whole truth. Since 1990, a number of leading researchers—Frank Furstenberg, Andrew Cherlin, Sara McLanahan, Gary Sandefur, and Nicholas Zill, among others—have assembled large quantities of original data and subjected it to rigorous analysis. Here is the consensus of their findings: There is a critical distinction between divorces involving physical abuse or extreme emotional cruelty and those that do not. Minor children in the former category are on balance better off than those whose parents had remained married. But the opposite is the case for the children in the latter category, where divorce follows lower-intensity conflict. Correcting for the effects of both income loss and pre-divorce conflict between parents, divorce in these cases has an independent, negative effect on the well-being of minor children along a number of key dimensions: school performance, high-school completion, college attendance and graduation, labor-force attachment and work patterns, depression and other psychological illnesses, crime, suicide, out-of-wedlock births, and the propensity to become divorced.

There is also evidence that the experience of divorce diminishes trust (in other individuals as well as institutions) and impedes the capacity of children, once grown, to form stable, lasting relationships. And there are significant gender differences: Boys tend to "act out" their feelings of abandonment and resentment, while girls turn inward and become depressed. The negative effects on boys typically are seen early on; for girls, the effects are frequently not felt until adulthood.

Here's how Furstenberg and Cherlin summarize the implications of this emerging understanding:

> It is probably true that most children who live in a household filled with continual conflict between angry, embittered spouses would be better off if their parents split up—assuming that the level of conflict is lowered by the separation. And there is no doubt that the rise in divorce has liberated some children (and their custodial parents) from families marked by physical abuse, alcoholism, drugs, and violence. But we doubt that such clearly pathological descriptions apply to most families that disrupt. Rather, we think there are many more cases in which there is little open conflict, but one or both partners finds the marriage personally unsatisfying.... A generation ago, when marriage was thought of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

> as a moral and social obligation, most husbands and wives in families such as this stayed together. Today, when marriage is thought of increasingly as a means of achieving personal fulfillment, many more will divorce. Under these circumstances, divorce may well make one or both spouses happier; but we strongly doubt that it improves the psychological well-being of the children.

Children are not the only victims of divorce. While the claim of Lenore Weitzman, an early supporter of no-fault divorce, that women suffer a 70 percent decline in their standard of living after divorce is no longer widely accepted, the Panel Study of Income Dynamics has documented a 30 percent drop, as compared to a 10 percent to 15 percent increase for divorced men. There are also health consequences. According to David Larson, for many years a research psychiatrist at the National Institutes of Health,

> Divorce and the process of marital breakup puts people at much higher risk for both psychiatric and physical disease. Being divorced and a non-smoker is only slightly less dangerous than smoking a pack or more of cigarettes and staying married.

Divorced men are twice as likely to die from heart disease, stroke, hypertension, and cancer as married men in any given year. Divorced women are two to three times as likely to die from various forms of cancer.

Law, economics, and culture

What caused the explosion in the rate of divorce over the past 30 years is much debated. Economics may have played a role: Women surged into the paid workforce in unprecedented numbers. Male salaries and wages declined, both absolutely and relative to those of women.

It was also a period of profound cultural change. Daniel Yankelovich has recently charted some of the key shifts. Compared to 30 years ago, Americans today place less value on obligation to others, on sacrifice, and on self-restraint. By contrast, we place more value on individualism, on self-expression and self-realization, and on personal choice.

These shifts are correlated with important changes in attitudes toward children, families, and marriage. Americans are

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

far more accepting of divorce today than 30 years ago. We are far more likely to say that marriage is first and foremost a means to personal happiness. And we are far less inclined to believe that parents in a less than fully satisfactory marriage ought to make an effort to stay together for the sake of their children. Up to the mid 1960s, about half of all Americans thought that parents had an obligation to make this effort. By 1994, that figure had declined to about 20 percent.

But this period of rapid economic and cultural change has been accompanied by a period of rapid change in the law of divorce. As recently as 30 years ago, every state had a fault-based system. The standard grounds for divorce included adultery, physical abuse, mental cruelty, desertion, imprisonment, alcohol or drug addiction, and insanity. Within five years of the passage of California's 1969 no-fault statute, 45 states had followed suit. By 1985, the last bastions had crumbled; every state had either replaced its old fault system or had added important no-fault options.

It is tempting to conclude that the movement toward no-fault divorce is the product of the economic and cultural changes, and that it has had no independent effect on divorce rates or outcomes. This view was largely unchallenged until about a decade ago. But the tide is turning. While full scholarly returns are not yet in, evidence is accumulating that once instituted, no-fault laws further accelerated the pace of divorce. A 50-state survey published in the *Journal of Marriage and the Family* concluded that "the switch from fault divorce law to no-fault divorce law led to a measurable increase in the divorce rate." (This study used a range of statistical techniques to distinguish between long-term trends and temporary surges representing pent-up demand for divorce, on the one hand, and the enduring effects of the shift to no-fault on the other.) This effect is especially powerful for older couples in marriages of 25 years and more. It seems increasingly likely that no-fault divorce laws gave added impetus to the economic and cultural trends already well underway in the 1970s.

There is also evidence that no-fault divorce law directly impacted the post-divorce economic circumstances of women. In circumstances in which divorce is not consensual, no-fault

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

weakens the bargaining position of the spouse who wants the marriage to continue. The movement from fault to no-fault has been correlated with an increase in male-initiated divorces. In an important 1986 study published in the *American Economic Review*, Elizabeth Peters showed that wives fare best in states that restrict unilateral no-fault divorce and worst in states that grant it on demand. Moreover, the egalitarian norm underlying no-fault has led to the presumption (in some states a legal requirement) that marital property be divided equally—a dramatic shift away from the prior system in which women typically received the bulk of the property.

The now-vanished fault system afforded some protection for women who chose (in economic terms) to "specialize" in household responsibilities. Protection was necessary because the cost of this decision is (on average) a permanent reduction of earnings potential in the paid workforce. The adoption of no-fault divorce has had two predictable effects. Older women caught in the transition, with no opportunity to adjust, found themselves much worse off after divorce. Younger women adjusted by accelerating their movement toward economic independence. While the growth of real wages accounts for most of the increase in female labor-force participation between 1950 and 1980, no-fault divorce has been shown to have had an independent effect on women's paid labor since then.

There are theoretical reasons to give weight to such findings. Easier divorce laws produce an "investment effect"—the diminished propensity to invest time or resources in relationships that don't hold out the promise of security. There is also a "demonstration effect": Once a practice becomes pervasive in a community, individuals at the margin—those who might go one way or another—may be pushed in a particular direction by the behavior of those around them.

And finally, there is the "destigmatization effect." There is no question that no-fault divorce laws symbolized the spreading belief that divorce presented no particular moral problem, that there was, in the moral as well as legal sense, no fault. As Harvard law professor Mary Ann Glendon has observed, in moving away from the legal standard of fault, we also set aside the moral standard of responsibility.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

First principles of legal reform

Many leading researchers now espouse the view that children would be better off if there were fewer divorces stemming from lower-intensity conflict between adults. In *Marriage, Divorce, Remarriage*, for example, Cherlin says, "I don't think a divorce under these conditions helps children." In a recent interview, Sandefur states that "most parents divorce because of conflict between themselves that doesn't affect the kids that much. In other words, if the mothers and fathers stayed together, they might not particularly enjoy themselves, but the kids would be better off if they could work together as effective parents."

In light of such findings, the real issue is not whether children would benefit from lower divorce rates; they would. The issue is whether public policy can help bring about this result at all—or whether it can do so at an acceptable cost. Many scholars who share my discomfort with the condition of the American family see economic and cultural change as the main causes of higher rates of divorce, and legal change as the reflection of these deeper shifts. Furstenberg and Cherlin speak for many others when they say, "Although we would support public efforts to strengthen marriage, we are inclined to accept the irreversibility of high levels of divorce as our starting point for thinking about changes in public policy." By contrast, my analysis stresses the extent to which legal change has independently intensified the effects of economic and cultural change. Of course, there are limits to what another round of divorce-law reform could accomplish. But the evidence now available forbids us to conclude that law is powerless to affect conduct.

It would be odd if it were. The law of divorce determines the barriers to, and costs of, exit from marriage. Indeed, theory predicts what observation confirms: At the margin, lower barriers to exit produce a larger number of departures. Some couples will stay married, regardless of the legal regime; others will get divorced, even at enormous cost; but many in the middle zone of discontent will be influenced by the perceived difficulty of ending an unsatisfying, but not disastrous, relationship.

Other scholars and activists resist a new round of divorce-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

law reform not because they believe law is impotent but rather because they fear it could only achieve its objectives at excessive moral cost: individual freedom lost; self-development thwarted; couples trapped in loveless relationships; women exposed to even higher levels of abuse.

But these fears rest on the assumption that the only alternative to the status quo is a return to the law as it existed prior to 1969. This is a false choice: There are many reform possibilities that do not involve "turning back the clock." Besides, I am unaware of any evidence linking no-fault divorce to lower levels of spousal abuse.

It takes a family

There is one real disagreement, however. The recent movement for divorce-law reform rests on the belief that, in marriage as elsewhere, the past quarter century's emphasis on self-fulfillment has gone too far and that we must seek a new balance between rights and responsibilities. Those who are comfortable with the moral sensibilities of the 1960s and 1970s understandably will resist these changes. The debate over divorce is thus one facet of the broader national discussion over the limits to individualism.

Families are composed of individuals with interests that converge only in part. We should divest ourselves of the romantic conception of perfect harmony, in which arrangements that serve the interests of husbands equally serve the interests of wives or of children. What is good for men who have worked outside the home all their adult lives may not be good for those women who have never done so. What is good for one or both parents may not be so good for minor children. And what may seem desirable for some families may have negative consequences for society as a whole.

The question before us is how best to deal with these tensions. During the past generation, we have encouraged, or at least tolerated, the development of a divorce law that has favored adults over children, and economically advantaged workers (usually male) over dependent spouses (usually female). The time has come to redress the balance, in a manner that requires individuals to assume greater responsibility for the interpersonal and social costs of their actions.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

In the current cultural context, it is hard to make a case for restricting personal choice when the consequences of that choice affect only independent adults who are capable of asserting and defending their own interests. I am thinking in particular of marriages in which both spouses work and there are no children. Yet there is still a strong case to be made that the law should protect vulnerable individuals and the general interests of society.

Within this framework, I would propose three goals: First, we should endeavor to reduce the number of divorces, particularly, but not exclusively, those involving minor children. Second, when such divorces are unavoidable, we should seek to mitigate the consequences for children. Third, we should restore a level playing field—and adequate protections—for women who choose the role of full-time mother.

Points of intervention

There are three points at which we can intervene to reduce the incidence of divorce. The first occurs at or before the threshold of marriage. It is stunning how much time public education spends on sex while failing to discuss marriage in any sustained manner. It is a legitimate function of public education to treat marriage seriously as a human and social institution. Religious institutions have a role to play here too. For the overwhelming majority of Americans, marriage remains a sacrament and still takes place under the aegis of religion. If every church and synagogue took as one of its principal tasks the thorough preparation of young people for marriage, it could make a significant difference. There is some evidence that this strategy works best when all the religious institutions within a community unite around this objective in a mutually reinforcing way.

These educational efforts should be reinforced by the law. In most states it is much harder to get a driver's license than a marriage license. At a minimum, each state should impose a reasonable waiting period (at least one month, but preferably three) and require couples to show that they have completed a program of counseling (religious or secular) preparing them for marriage.

The second point of intervention occurs during marriage.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

At a minimum, we should systematically reexamine our economic and social policies (and our tax code) with an eye to building a marriage-friendly environment. The private sector can contribute as well, through flex-time, telecommuting, job-sharing, part-time work with better benefits, and generous leave policies for family emergencies. Religious institutions should offer programs for couples who want to renew their marriages or to confront problems that could lead to marital dissolution if left unaddressed.

The third key point of intervention occurs at the threshold of divorce: We should change the current no-fault regime. As many observers have noted, the American law of divorce lurched from one extreme, where fault had to be demonstrated in nearly all cases, to the other extreme, where in most states either spouse can terminate the marriage without the other's consent. The sensible, moderate alternative—no fault-divorce by mutual consent—was all but ignored. Only two states (New York and Mississippi) require mutual consent. In 40 states, divorce may be obtained after a separation of one year or less, regardless of the other spouse's opposition. Given the stated intentions of the reformers, this is especially curious: The "hypocrisy" to which they objected arose when husbands and wives colluded to manufacture fault that would pass legal muster. The mutual consent option would eliminate the need for such maneuvers.

And states should certainly eliminate unilateral no-fault divorce for couples with minor children—and return to an updated fault system (one that, for example, takes into account what we've learned over the past two decades about spouse abuse). As an alternative to fault in unilateral cases, states could establish a five-year waiting period before a non-consensual no-fault divorce is allowed to occur. Even in cases where both parties consent, there should be suitable braking mechanisms: a mandatory pause of at least a year for reflection, counseling, and mediation.

States should also provide legal backing for couples who want to create their own frameworks for stabler marriages. Numerous experts—Mary Ann Glendon, Elizabeth Scott, and Maggie Gallagher, among others—have advocated premarital agreements ("precommitments") as ways for couples to bind

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

themselves in advance to extended waiting periods between separation and divorce, to mandatory mediation and counseling, and to various economic deterrents. Such agreements are especially important when state law doesn't build these protections into marriage for all couples. But, in most jurisdictions, Scott points out, the enforceability of such agreements is open to serious doubt. States should address this by defining precisely the types of premarital agreements they will enforce.

Save the children

Even if divorce involving minor children cannot be prevented, there are steps we can take to mitigate the consequences. We have learned a great deal in the past decade about why divorce hurts children. I rely especially on the recent work of McLanahan and Sandefur, which identifies three principal causes of harm:

- diminished income—roughly a 30 percent drop for children and the custodial parent;
- diminished parenting time from the non-custodial parent (usually the father) who detaches himself from his children and from the custodial parent (usually the mother) who has to combine work inside and outside the home;
- disruption of established ties—to friends, neighborhoods and communities, and educational institutions.

With regard to the economics of divorce, I believe (following Mary Ann Glendon) that we should adopt a "children first" principle. Issues of property division should not even be discussed until adequate provision is made for the economic needs of children. When children opt for post-secondary education and training, child support should cover a reasonable share, at least until age 21. In addition, we need to get far more serious about child-support enforcement. Important legislation has been adopted in the past decade to enhance the capacity of states to work cooperatively, but we can and must go farther.

With regard to the second goal—maximizing post-divorce parental involvement—there should be a presumption in favor of joint legal custody whenever feasible. When it is not, non-custodial parents should enjoy the most liberal possible visita-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tion rights, and those rights should be strictly enforced. (Few states now do so.)

This is important, in part, because some evidence—anecdotal and statistical—suggests that many non-custodial parents delay or withhold child-support payments when they feel that their visitation rights have been impaired by the custodial parent. A 1991 Census Bureau report indicated that 79 percent of fathers with visitation rights were current on child support, versus only 44.5 percent who had neither visitation nor joint-custody rights. Of those with joint custody, more than 90 percent were current. More research is needed to clarify the causal relations underlying these figures. Still, it seems plausible that, in addition to reducing the parenting deficit, maximizing the post-divorce involvement of both parents with their children would help mitigate economic harms as well.

Finally, to minimize disruption of vital social ties, minor children must be allowed to remain in their pre-divorce neighborhoods and communities whenever possible. For many families, the home is the only significant item of property to be divided between the divorcing parties. Nonetheless, the goal of allowing children to remain in their homes during the period of greatest vulnerability should trump the goal of the immediate equal division of property. This means that judges should have the option of excluding the home from the property settlement for an extended period—perhaps until the children have departed for college or entered the paid workforce. A few states have begun moving in this direction; the rest should follow.

Fairness for women in long-term marriages

In addition to safeguarding the interests of children of divorce, we should also be mindful of the interests of a certain category of women. As I noted earlier, no-fault divorce especially harmed women in long-term marriages. This is, of course, morally unacceptable. In short, the law should not penalize women who have chosen to spend much of their adult lives working inside the home. At the very least, such women should not be pushed into straitened circumstances by divorce. But that is what's happening in all too many cases.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

No-fault is part of the problem, but issues unrelated to the grounds for divorce also contribute to unfair outcomes. As many experts have observed, the law of divorce has failed long-married women twice over—by allowing men expanded opportunities for non-consensual divorce and by not specifying appropriate terms of financial rectification. The exercise of judicial discretion within the no-fault framework has failed to protect the vulnerable. Settlements based on the principle of formal equality have not recognized the fact of structural inequality.

Two changes could help address this situation. First, the possibility of long-term alimony (which has all but vanished from contemporary settlements) should be restored for women who have invested heavily in the marriage at the expense of their opportunities outside the home. Deborah Rhode, professor of law at Stanford University, and Martha Minow, professor of law at Harvard University, have set forth a sensible principle to guide such awards:

> Spouses who have sacrificed their own earning potential for the family's well-being or their partner's advancement should have a claim for compensation that is commensurate with their contributions and their sacrifices. The longer the marriage and the less adequate a spouse's independent resources, the greater that claim should be.

Second, even when fault is not legally relevant as grounds for divorce, it may well be appropriate to take it into account in determining fair settlements. As Herma Hill Kay, professor of law at University of California, Berkeley, puts it,

> The fault doctrine may have served to lend emotional vindication to the rejected spouse, as well as a measure of financial protection and status as the preferred custodian of children. If so, greater justification may be required in those cases for eliminating that doctrine from the related areas of support, property distribution, and child custody.

The proposed changes in settlements involving children and women in long-established marriages would protect the economic interests of these two vulnerable groups. The changes would also put men on notice that the financial responsibilities they will bear after divorce are considerable and long-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

term. It is not unreasonable to expect, then, that the combination of new limits on no-fault and more stringent settlement principles will have a deterrent effect, reducing the incidence of divorce.

The moral challenge

The law, however, is a limited instrument of social policy. At some point, highly demanding laws become less effective than those that are less restrictive. The identification of the optimal level of legal restraint is a matter of art rather than of science. Experience suggests that the optimum will fall well short of our hopes.

In the end, the future of marriage in America hinges on a handful of moral questions. Are we willing to put the well-being of children first, even when this conflicts with adult desires and restrains our current passion for unfettered autonomy? Are we willing to honor claims of justice and fairness in the case of those who have sacrificed personal advancement for the good of the family? And are we prepared to recognize the kind of contentment that stems not from the gratification of momentary impulse but from loyalty to commitments that endure? Only when we are able, as a society, to return affirmative answers to these questions will reforms in the law of divorce have a real chance of success.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

What glass ceiling?

MICHAEL LYNCH & KATHERINE POST

As the debate over affirmative action heats up, a concerted effort will be made to convince women that they are victims of job discrimination. Currently, a constitutional initiative in California, headed for the November 1996 ballot, threatens to abolish public-sector preference programs, and, indeed, opponents of the initiative are appealing to women to oppose it. The National Organization for Women (NOW), for example, has made defeating the California Civil Rights Initiative (CCRI) its number one priority for 1996, and such formerly non-political groups as the YWCA have joined the charge to defeat it.

We recently completed a study in which we reviewed existing studies in this area; we have also compiled relevant data from the Census Bureau and the Bureau of Labor Statistics. Our findings, which are consistent with those of other scholars, are: (1) the wage gap has been closing in recent years, and that, when the data are controlled for relevant variables, it virtually disappears; and (2) the so-called glass ceiling is

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

more a product of relative ages and qualifications of men and women than of explicit discrimination. In general, we found that women's current economic position relative to men is more a product of individual choices than of third-party discrimination.

Is there really a wage gap?

In the 1960s, feminist activists donned "59 cents" buttons to decry the fact that women, on average, earned 59 cents for every dollar a man earned. They maintained that this was hard proof of "gender" discrimination. By 1995, however, women were earning 74 cents for every dollar earned by a man; but preference advocates still called for government involvement in the economy to redress gender discrimination.

The wage-gap figure has proved to be a powerful political tool, though it is less useful as a measure of discrimination. As a statistical aggregate, the wage gap is only an amalgamation of all of the wages paid to women divided by all of the wages paid to men. To infer discrimination from such an aggregate, one must assume that the factors that determine wages—such as education level and concentration, field of work, and continuous time in the workforce—are constant across the sexes. As it happens, such an assumption is highly suspect. In fact, even when a particular wage-gap figure is advertised as having been corrected for such factors, this is usually only partially true.

For example, it is true that women earn less than men at every level of education achieved. In 1994, among those who held bachelor's degrees, women earned 76 cents on the male dollar. This ratio increased to 79 cents for those with master's degrees and to 85 cents for those with doctorates. The implication that is usually drawn is that, since the data is controlled for education, the remaining disparity proves that women continue to face discrimination in compensation levels. This level of aggregation, however, fails to account both for the fields in which men and women hold degrees and for the actual fields in which the graduates find employment. Residual differences in earnings are best explained by variations in choices of educational and career fields, not discrimination.

In 1992, more than one-third of the bachelor's degrees

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

earned by women were in communications, education, English literature, the health professions, and the visual and performing arts. Of the bachelor's degrees earned by men in 1992, only 17 percent were in these fields. In the same year, 26 percent of men who earned bachelor's degrees did so in business, compared to 20 percent of women. Thirteen percent of men's bachelor's degrees were earned in engineering, compared to 2 percent of women's.

The contrast becomes more striking when we move from bachelor's to advanced degrees (master's and doctorates). While one out of four women who earned Ph.D.s did so in education—a field in which an individual with an advanced degree earns, on average, a mean monthly income of $3,048—one out of five men who earned doctorates did so in engineering, a field in which an individual with an advanced degree, on average, earns a mean monthly income of $4,049.

In 1992, the last year for which published data are available, women earned 75 percent of the advanced degrees conferred in education, 70 percent of the advanced degrees conferred in public administration, 65 percent of the advanced degrees conferred in English literature, and 63 percent of the advanced degrees conferred in ethnic and cultural studies. In this same year, by contrast, men earned 86 percent of the advanced degrees conferred in engineering, 75 percent of the advanced degrees conferred in physical sciences and science technologies, 65 percent of the advance degrees conferred in business management and administrative services, and 60 percent of advanced degrees conferred in mathematics.

Furthermore, it must be emphasized that these figures are for one year and do not represent the total labor pool. The wage-gap figures, however, are based on the total pool. Since women have increased their representation in such fields as business and engineering in recent years, these 1992 figures overstate the proportion of women qualified to work in these fields.

Thus if we examine cumulative figures, we find even more pronounced differences. As of 1990, more than one in four women who held a bachelor's degree or higher earned that degree in education, while less than one in ten men who held a bachelor's degree or higher earned that degree in education.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

By this same year, nearly one in four men who held a bachelor's degree or higher earned that degree in business management and nearly one in six men held a degree in engineering. By contrast, less than one in eight women who held a degree in 1990 earned that degree in business management and less than 2 in 100 in engineering. As to be expected, these different concentrations hold major implications for earnings. Regardless of the sex of its holder, the market demand dictates that a degree in engineering is worth more than a degree in education.

Market discrimination or personal choice?

Many feminists interpret the above data as precisely the problem: Women's work is undervalued relative to men's. The truth is that all professions have costs and benefits that are both monetary and non-monetary. While investment bankers make more money than school teachers, teachers derive non-monetary benefits—e.g., long summer breaks—which are not available on Wall Street. It must also be noted that it is entirely consistent with economic theory for wages to drop in an industry in which a significant number of women enter. If women suddenly enter a field previously dominated by men, and if there is not a reduction in male participation in the field, overall labor supply will increase, thus exerting downward pressure on wages.

There are also psychological reasons why women have historically tended to concentrate in certain fields. For example, the preponderance of evidence suggests that women, on average, have a stronger preference for children than do men. It is this difference, concludes Stanford economist Victor R. Fuchs, which contributes to women's economic disadvantage. While this claim continues to be debated, a myriad of both statistical and anecdotal evidence supports it. In 1995, the Whirlpool Foundation, in conjunction with the Families and Work Institute, sponsored a poll conducted by Louis Harris and Associates, Inc. The results were published as a study entitled "Women: The New Providers." Some of this study's findings indicate that women, more so than men, define success in terms of home and family. "The New Providers" found that "family remains at the core of what's important for women,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

whether they work inside or outside the home." Only 15 percent of the women polled would work full time if they didn't feel they had to financially, while more than twice that of men would.

Expectations about the future also shape the fields women enter. June O'Neill, the current director of the Congressional Budget Office, has pointed out that, as recently as the late 1960s, less than 30 percent of the women in the National Longitudinal Survey of Youth expected to be working at age 35, even though more than 70 percent actually were. As a result, it made little sense for women of this generation to spend time and resources acquiring skills that they didn't expect to use. Moreover, it made sense for those women, who expected to spend time outside of the workforce raising a family, to specialize in flexible fields, such as teaching. Thus rational self-interest, not discrimination, appears to account for women's occupational clustering.

Less hours, less pay

In addition to the fact that men and women vary in the fields in which they specialize, they also differ in the amount of time they devote to paid work. The accumulated evidence shows that, even as the gap between labor-force participation rates of men and women closes, men consistently work more hours than women.

A 1992 Census study on the relationship between education level and earnings found that, at every level of education, men have more months with work activity than women. A 1984 Census study found that, while only 1.6 percent of a man's work years were spent away from work, 14.7 percent of a women's work years were spent away from work—an eightfold difference. This prompted the U.S. Department of Labor (DOL) to conclude that "women spend significantly more time away from work and are apparently unable to build the seniority that men achieve." In addition, the DOL noted that the turnover rates are higher for women than for men.

With less seniority, it is hardly surprising that women's earnings are, on average, lower than men's. A 1990 National Bureau of Economic Research working paper found "a very strong connection between job seniority and wages in the typical

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

employment relationship: other things held constant, 10 years of job seniority raises the wage of the typical worker by over 25 percent." In addition, women who work still put in less time than men. DOL data show that, in 1994, 55 percent of women worked 40 or more hours a week compared to 75 percent of men. While 16 percent of men worked 55 or more hours a week that same year, only 6 percent of women did. Again, it is reasonable to expect that someone who works 55 hour weeks will earn more, over time, than someone who works 40 hours, regardless of whether they are male or female. While it is simply common sense to conclude that those who work more produce more and, as a result, earn more, these inconvenient facts are often ignored.

Same work, same pay

The pay gap between men and women virtually disappears when age, educational attainment, and continuous time spent in the workforce are factored in as wage determinants. In fact, this is neither a new phenomenon nor a product of preference programs. Economist Thomas Sowell has shown that, as early as 1971, never-married women in their thirties who had worked continuously earned slightly higher incomes than men of the same description. In the academic world, single women who earned Ph.D.s in the 1930s became full professors by the 1950s at slightly higher rates than their male counterparts. In addition, never-married academic women earned slightly more money in some years than men of the same description.

Similarly, June O'Neill has found that women between the ages of 27 and 33 who had never had a child earned nearly 98 percent as much as men in this same demographic. In another study, O'Neill and Solomon Polachek found that the gap in earnings between men and women with Ph.D.s in economics was a mere 5 percent.

A less scientific but more comprehensive salary survey by *Working Woman* magazine in February 1996 indicates a shrinking wage gap as well. Compiling data on 250 positions in 38 industries, the *Working Woman* survey found that, on average, women in the study earned 85 percent to 95 percent of what men in similar positions earned. While there were some fields

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in which women earned much less than men, there were other fields, such as university administrators, in which they earned more. In fact, while pay for males has dropped 11 percent since 1974, the average female worker's pay has increased by 6.1 percent. For women in high-powered jobs, pay levels have shot up 16.4 percent. This is consistent with data from a 1992 study by Korn/Ferry International, which found that women had reached the base salary of $100,000 at a younger age than the men polled in their 1989 survey. More than 50 percent of women were already earning $100,000 by the time they reached 40, while at that age, only 31 percent of men were earning at least $100,000.

An unbreakable glass ceiling?

In March 1995, the Federal Glass Ceiling Commission released its report on the status of diversity in corporate America, *Good For Business: Making Full Use of the Nation's Human Capital*. The central point of the report is that only 5 percent of senior managers at Fortune 1000 companies are women. Like the wage gap, this has become a rallying cry for advocates of preference programs for women. It suffers, however, from many of the same defects as the wage-gap theory.

Like the wage gap, the glass ceiling, at its core, reflects a choice gap, an age gap, and an aspirations gap. A typical corporate career lasts 40 to 45 years, which spans two generations. The people who run today's largest corporations were in their twenties in the 1960s. But, as we mentioned earlier, the National Longitudinal Survey shows that, as late as the 1960s, only 30 percent of women expected to be working at age 35. Since most women didn't expect even to be working at 35, it is doubtful that many of them prepared to be CEOs at 55. Indeed, both educational and professional data bear this out.

The National Longitudinal Survey finds that today most women expect to work outside of the home. As a result, they are preparing to be professionals. The most popular major for women today is business, which accounted for 20 percent of the bachelor's degrees awarded to women in 1992. Moreover, women of late have been filling the professional schools. In little more than two decades, women have increased their share of M.B.A.s, M.D.s, and J.D.s by more than 400 percent.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The percent of M.B.A.s earned by women increased from 3.6 percent in 1970 to 35.6 percent in 1993. Over this same period, the percent of M.D.s earned by women jumped from 8.4 percent to 37.7 percent, and women increased their share of law degrees from 5.4 percent to 42.5 percent. These women will be the CEOs, chief surgeons, and law partners of tomorrow, if they so desire.

This suggests that women are on the cusp of even greater representation at the senior-most levels of our country's major corporations. The 1992 Korn/Ferry survey found that the average age of senior corporate women was 44. Twenty-one percent of the women were under 40, and a mere 1.6 percent were over 60. This compares to an average age in their 1989 predominantly male survey of 52. Of the men, only 1.4 percent were under 40, and 15.9 percent were over 60. This study did find a wage gap: The women in 1992 earned two-thirds of what the men in 1989 did. This might be partially explained by the relative youth of the women and by the fact that, on average, they had been with the same firms six fewer years then the men.

This study also found that corporations are competing for top-level women. Women reached the $100,000 base salary earlier than the men, and, on average, women in the top positions were less likely to have either an undergraduate degree (90.4 percent for women compared to 96.9 percent of men) or a graduate degree (51.9 percent for women and 62.6 percent for men). In contrast to the Glass Ceiling Report, this study found that, from 1982 to 1992, the number of women holding the title of Executive Vice President more than doubled, from 4 percent to 9 percent, and that women increased their presence at the Senior Vice President level from 13 percent to 23 percent.

The coming years will thus find women reaching the top in virtually every area of American life, and without the aid of preference programs. But it would be a mistake to conclude that this will produce statistical parity. Professional women and men do not all hold the same aspirations. While the Korn/Ferry survey found that women expected to be part of their company's senior management team for the year 2000 at higher rates than men, far fewer aspired to be CEOs (14.1 percent of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

women compared to 44.6 percent of men). This, when coupled with plans for early retirement (76.5 percent of women wish to retire before age 65 while only 30.4 percent of men do), suggests that there may be an aspirations gap between the sexes. It is this choice gap, not discrimination, that will slow the onset of statistical parity.

Women entrepreneurs

Another problem with the glass-ceiling theory is that, by focusing on only the largest companies, it misses much of the economy. Consistent with their educational and career choices, women have made major gains in the broader economy in recent years. In 1984, women held 33.6 percent of the managerial and executive positions in America's companies and accounted for nearly one out of two professionals (48.5 percent), according to the DOL. A decade later, women held 48.1 percent of managerial/executive positions and accounted for more than one-half (52.8 percent) of people employed in professional occupations.

More significantly, the glass-ceiling statistics neglect women's economic advances as private entrepreneurs. A study by Dun & Bradstreet Information Services found that there were 7.7 million women-owned businesses in the United States in 1994. Far from small drops in the economic bucket, these businesses generated $1.4 trillion in sales. Showing employment growth rates 118 percent higher than the economy as a whole between 1991 and 1994, these businesses employ 35 percent more people than the Fortune 500 employ worldwide. Nor are these businesses concentrated in sectors categorized as "pink collar." In the 1980s, women moved into agriculture, communications, transportation, and manufacturing. Between 1991 and 1994, the number of women-owned construction companies increased by 19.2 percent, and the number of women-owned manufacturing firms increased by 13.4 percent.

The Dun & Bradstreet findings have been recently replicated by a study from the Interagency Committee on Women's Business Enterprise, which was created by President Clinton in 1995. Using Census data from 1987 to 1992, the report shows that, in 1992, women-owned businesses represented one-third of all domestic firms operating in the United States and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

40 percent of all retail and service firms. The report notes that, from 1987 to 1992, the number of women-owned firms grew by 43 percent, almost double the rate of growth for all firms. During this same period, employment by women-owned firms increased 100 percent, compared to 38 percent for all firms.

The news is good

The advocates of sex-based preferences argue in part that affirmative action is necessary to overcome discrimination and to ensure the economic progress that women are due. In fact, as we have shown, women have made a great deal of economic progress over the last several decades, to the point that qualified women who do the same work as similarly qualified men receive the same pay as men (and sometimes more). The differences that now exist are the result of individual choices, not of third-party discrimination. That is good news, and it is a shame that it will be obscured by the political head-counting that will undoubtedly occur in the debates that lie ahead.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Freud and the culture wars

YALE KRAMER

ABOUT one-hundred years ago, Freud published his first major work, *Studies on Hysteria*, which became a milestone on the road to understanding the complexity of man's nature. To celebrate the centenary of the birth of psychoanalysis, and to examine its impact on our culture, the Library of Congress—the largest repository of Freudiana in the world—planned a major exhibit on Freud for late 1996. But the arrangements quickly became mired in politics. Petitions were signed, and some of Freud's fiercest and most dedicated enemies denounced the proposed exhibit. So, a few months ago, the Library caved in and postponed the Freud exhibit to some time in the distant future. It is clear that even now, more than 56 years after his death, Freud can still evoke passionate feelings.

Reflecting recently on these events, I recalled an old photograph of Freud which hung on the wall of my first consulting room. It had hung there for several years inspiring, I had hoped, confidence in me and awe in my patients. My recollec-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tion is that it did neither to any significant degree. It wasn't the famous photograph taken in 1921, Freud at the height of his powers—arrogant, brimming with life force and standing with one impatient hand on his hip and the other holding his ubiquitous cigar—glowering at the photographer as if to say, "Enough of this nonsense!"

My photograph was of the old, dying Freud. I have forgotten how it came into my possession, but it had been taken in England the winter before his death. He wears a topcoat and soft gray fedora, and he appears slightly stooped and frail, with his hands behind his back, looking at the camera with the patient acceptance of an old Jewish refugee. The picture, in its black frame, now stands behind some old journals in my current office, gathering dust—an irrelevant professional prop.

In the beginning

Nineteen hundred and nine, when Freud was 53, marked a turning point in the vicissitudes of his professional life, the beginning of worldwide fame and of the spread of popular Freudianism—and it all began in Worcester, Massachusetts.

In 1889, the American psychologist G. Stanley Hall had been given the money and the mission to develop the new Clark University into a rival of Harvard and Johns Hopkins. A somewhat eccentric man with a strong interest in child psychology, Hall often looked to Europe for new ideas. And when the Swiss psychiatrist August Forel told him in 1899 about *Studies on Hysteria*, he became a distant admirer of Freud's controversial sexual theories. So it is not surprising that, when the time came to celebrate Clark's twentieth anniversary in 1909, Hall chose to award Freud an honorary LL.D., if he would come to receive it and give a series of lectures.

Most of the American academic world of psychology and psychiatry came to hear Freud's ideas, and he didn't disappoint. In five brilliant introductory lectures, he dashed off a reprise of his theories on dreams, the sexual life of children, and the neuroses. Even William James, who was no admirer, was reportedly impressed.

Among the topics addressed by Freud was his theory of "dammed-up libido." A model of symptom formation, it emerged out of Freud's observations of those of his patients who suf-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

fered from what he called anxiety neuroses—a common syndrome characterized by general irritability, anxious expectation, and hypochondria. This syndrome, Freud thought, was quite different from hysteria, in which the causal experience had occurred in the past, and in which the traumatic memories were repressed and had to be dug up in order to be discharged. Hysteria was a "defense" neurosis, the defense being the forgetting, and could be treated by the new cathartic psychotherapy. In contrast, patients who suffered from anxiety neuroses, Freud said, were not suffering from traumas of the past and so were untreatable by psychotherapy. His observations of these patients led him to the conclusion that their problem was that they suffered from inadequate sexual discharge. They engaged in unhealthy sexual practices, he said—excessive masturbation, coitus interruptus, ejaculatio praecox, prolonged sexual abstinence.

His theory was that when sexual excitement built up in the mind/body and could not be discharged adequately, the strangulated libido (erotic urge) was somehow converted into anxiety. The essential treatment was sexual hygienic advice to those who suffered from anxiety neuroses: Do not engage in any activity that interferes with or precludes full orgastic satisfaction in sexual intercourse.

The dammed-up-libido theory of symptom formation wasn't bad for its time but eventually proved untenable. Freud's genius—and his curse—lay in his ability, based on a few shrewd observations, to see the central issue of a problem and to formulate an organizing concept that would explain the observations. There is no question that he was a high roller when it came to theorizing. Some of his bets paid off handsomely and have withstood the test of time; others have not. And ironically, it is the latter—those that have not—that became the most virulent carriers of vulgar Freudianism and that changed the climate of Western culture for the next 100 years. This was especially the case with the dammed-up-libido theory, which, like all treatments then and now, came with a set of cultural side effects that were unforeseen, powerful, and mischievous.

Indeed, it was within but a few years of the Clark Conference that psychoanalysis was introduced to the American public by popular magazines. In 1912, hundreds of thousands of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

McClure's Magazine readers were learning that the most successful and progressive physicians in the nation were being influenced by Freud's radical ideas and methods.

But the most powerful disseminating force during the years before and after the Great War was the cadre of writer-intellectuals who became patient-advocates of psychoanalysis and Freudianism. They wrote for the *New York Times*, the *New Republic*, and *Vanity Fair*, and their social center was the Liberal Club in Greenwich Village. They wanted to practice free love and to escape from the morality of the past—and they found their intellectual justification in Freud. Walter Lippmann writing for the *New Republic,* Eugene O'Neill, Edna St. Vincent Millay, Sherwood Anderson, Van Wyck Brooks writing for the *Masses* and the *Little Review*—rebels, all, against Puritan morals—became spokesmen for a Freudianism that went beyond Freud. For them psychoanalysis meant sexual fulfillment and miraculous personal transformation; and, furthermore, it was easy, almost effortless. All you needed was a good imagination, good verbal abilities, and a good education. It was made for them. They consulted analysts like Smith Ely Jelliffe and A. A. Brill for short periods of time and wrote about their experiences. Max Eastman told his readers in *Everybody's Magazine*, "We have but to name these nervous diseases with their true name, it seems, and they dissolve like the charms in a fairy story."

Early disseminators

In addition to this prominent literary circle, one of the early major disseminators of psychoanalytic concepts was the National Committee for Mental Hygiene (NCMH), founded in 1910 to aid the mentally ill. This organization, described in Nathan G. Hale's definitive history of psychoanalysis in America, *The Rise and Crisis of Psychoanalysis in the United States*, became the core of the Mental Hygiene movement. Its goal quickly became nothing less grandiose than the prevention of mental illness and delinquency by reforming child-rearing principles. Its power came from a well-connected network of sophisticated people and generous funding by the Rockefeller Foundation and Commonwealth Fund for the many projects it initiated.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

In the twenties, the leadership of the NCMH passed to Frankwood Williams, a psychiatrist, whose influence eventually became far greater than his capacities. Although he had only a passing familiarity with psychoanalysis, he was a tireless supporter of it and the Mental Hygiene movement. With him at the helm, this movement exerted a powerful influence on the educational policies of this country. But their ideology was derived from the most unrealistic notions of psychoanalysis. Virtually all human problems, from juvenile delinquency to social unrest, were thought to be symptoms of psychological problems that could be prevented easily through the intervention of the social worker, the teacher, and the school psychiatrist. Scientific understanding would replace old-fashioned discipline and punishment.

The idea was to transform the goals of the public school from education to therapy. The schools were to produce not informed and skilled students but students with healthy personalities. The reformers were scandalized by the idea of children doing homework "evening after evening from supper time to bed time bent over these atrocious text books." They were appalled at the sight of rigid rows of desks which put "the child in his place ... repressing spontaneous outbursts."

The progressive reformers mixed and matched ideas from John Dewey, early Freud, and Maria Montessori. Prior to 1923, both Dewey and Freud opposed repressive modes for dealing with instinctual urges, and both emphasized the importance of emotion over intellect. In 1932, Fritz Wittels, one of Freud's early followers, summed up the then-current ideals of psychoanalytic education: "No set programme, no wearisome examinations, no note-taking, no punishments. The pupils must never be discouraged, and censoriousness must be avoided like the plague."

It was around this time that the Mental Hygiene ideology achieved its greatest recognition. It dominated the 1930 White House Conference on Child Health and Protection, which subsequently had a tremendous influence on the rest of American education. It held that the mission of the school was primarily the production of well-adjusted personalities; that there are no bad children, only misguided parents; that the teacher should replace authority and punishment with understanding and ac-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ceptance; and that failure and lack of advancement were meaningless because there should be no rigid standards and no competition.

By this time, keener analytic observers like Anna Freud were beginning to write that such permissive programs, rather than creating *wunderkinder*, were creating serious character and behavioral disorders. The children were, of course, less inhibited, and perhaps brighter, but they also were less curious, had little capacity to persevere, clung to infantile habits, and were unable to concentrate in school. The European analyst-educators learned from experience and changed their practice and theory. The Americans did not.

Through the powerful agency of the Mental Hygiene movement, early psychoanalytic ideas also influenced the juvenile justice system. There would be greater toleration for instinctual outbursts, fewer severe sanctions, and a reconceptualization of crime as symptom rather than immoral act.

Probably the first and most famous case in the new Freudian era was that of Leopold and Loeb. The murderers—like the Menendez brothers today—were rich youths, and their trial hinged on psychological issues. Freud himself wisely turned down separate invitations from the publishers William Randolph Hearst and Robert R. McCormick to come to the United States to psychoanalyze the boys. They had already confessed to the crime, and so the purpose of the trial was to influence their sentences. Three analytic psychiatrists were called on their behalf by Clarence Darrow to undermine traditional views of crime and punishment. During the trial, psychoanalysis became identified with a radical view of criminal behavior which seemed to suggest that there is no act, even premeditated murder and dismemberment, about which society may feel moral outrage.

In 1930, Sheldon Glueck, a Harvard law professor, expressed the view that punishment was useless and absurd because some criminals took "neurotic satisfaction from the very social action that is supposed to deter and frighten them." Inspired by this "enlightened" thinking, Judge Atwell Westwick set up a program in Santa Barbara so that offenders could be examined by analysts. "The way to reform is to educate, and the way to educate is to psychoanalyze," he wrote. There is no doubt that

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

today's anachronistic and ineffective juvenile justice system developed out of the simplistic and unrealistic view of social reformers who tried to apply psychoanalytic concepts to areas of human conduct for which they were ill-suited and untried.

The golden age

During the twenties and thirties, the intellectual and social elite had become consumers and also enthusiastic advocates of psychoanalysis. Nonetheless, it remained an exotic, precious psychology, a boutique therapy for the intellectual and social elite. All of that changed, however, after Pearl Harbor, and, in the postwar years, the middle class fell in love with it too.

On December 7, 1941, there were 3,000 psychiatrists in America. About 80 percent of them worked in mental hospitals and were inexperienced in dealing with any but psychotic patients. Their view of mental illness was that it was caused by some biological predisposition, hereditary or constitutional. And, incredible as it may seem, there were only 100 accredited medical analysts available for service.

One of the most respected and influential of them was William C. Menninger, who ran the Menninger Clinic and Hospital in Topeka, Kansas, along with his brother Karl. Appointed Chief Psychiatrist of the Army in 1943, William Menninger encouraged psychodynamic ideas in the care and treatment of soldiers with "battle fatigue"—traumatic war neuroses. The non-analytic psychiatrists prescribed rest and forgetfulness for these men; the analysts prescribed the opposite: Get the men to remember their terrifying and guilt-provoking experiences and talk them out. It was exactly the same treatment that Freud had described in *Studies on Hysteria*. The only new wrinkle was that, in addition to hypnosis, the army psychiatrists used "truth serum"—sodium pentothal—to achieve the trancelike state.

The results of this method—called narcosynthesis by the Army—were as astonishing and dramatic as the cases in *Studies on Hysteria* 60 years before. It made deaf men hear and blind men see. It seemed miraculous to doctors, nurses, and patients alike, and allowed most of the patients to continue on active duty. The *New York Times*'s correspondent on Okinawa reported,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

> I saw the hypnotic treatment used. It looks ridiculously simple. The doctor softly reassures the patient that all is well, that he is safe. It is done in low tones, in constant repetition, until the patient just goes to sleep. And it works.... Hypnosis ... helps the patient talk out his case.

Word spread fast, and, by the end of the war, psychodynamic and psychoanalytic thinking had been pushed into the limelight, medically and socially.

The golden age of psychoanalysis, from 1945 to 1965, which many of us can still recall, raised Freud to the status of a cultural hero in America. Every analyst had a full caseload, and those with middle-European accents had two-year waiting lists whether they were good or not. It would not be too much of an exaggeration to say that every analyst with his Giaconda smile and penetrating eyes, in those innocent, optimistic days, seemed to project a satanic wisdom and an ancient priestly knowledge. Lucky the hostess who could count among her dinner guests a Freudian who probed much but revealed little to his female dinner companions.

Indeed, in the late forties and fifties, college campuses were saturated with the new science. You read Freud in Soc Sci I; your professors talked about it, taught it, and lent you books on it. Your friends were in it, going to be in it, or had been in it. Your sophisticated friends' parents talked knowingly about it, hinting personal experience; your own parents looked nonplused and slightly dazed when you mentioned it. When you took your girlfriend to the movies, you went to see Hitchcock's *Spellbound*. Later that night, you joked with her in bed about the Id and the Super-Ego.

In fact, the moral legacy of the Freudianism of the twenties and thirties to those who came of age in the fifties was, precisely, that one didn't have to be sexually abstinent. The unwritten expectation was that heterosexual intercourse was practically a prerequisite for undergraduate education. You didn't talk, as the bohemians had in the twenties, about "free love"; it was simply a basic assumption of college experience. The second legacy from the early days of Freudianism was the freedom to be egoistic. After all, one had heard in the coffee shop and the lecture hall that guilt and the Superego were bad and to be transcended. Unheedful of tradition, convention, loyalty to family,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

parental wishes, Freudianism circa 1950 told the young that the only thing that counted was being true to oneself.

And if you were a young postwar parent about to give birth to a baby boomer, Freudianism had something for you too. One of the texts you would anxiously consult and depend on was Dr. Benjamin Spock's *Common Sense Book of Baby and Child Care*. By 1965, the book had sold almost 20 million copies and was the bible of middle-class parenting. Others imitated him and followed him, but Spock's was the last word. Although Spock was not a practicing analyst, he was a member of that network of reform-minded, analytically oriented psychiatrists, social workers, and educators that made up the Mental Hygiene movement. The first edition of *Baby and Child Care* in 1946 was full of ideas about the instinctual life of children which harkened back to Freud circa 1908 and the old dammed-up-libido theory. The essential message, articulated over and over again in that edition, was twofold: Parents should not be alarmed at the expression of sexual and aggressive behavior—it was natural. And, rather than interfering with their children's instinctual behavior, parents should become sensitive to the child's instinctual needs. Tolerance, in other words, was to replace Watsonian training.

The message implicit in Spock's developmental philosophy was the same one preached by the Mental Hygiene movement of the 1920s: If you raise your children according to mentally hygienic principles, they will be uninhibited, free of guilt and shame, artistically creative, brilliantly imaginative, and assertively intelligent. Spock, without explicitly promising anything, excited the fantasies of narcissism that, to some degree, all parents harbor and project onto their children.

Psychoanalysis and its discontents

The cultural revolution that began in the late sixties changed popular psychology. The new generation of students, the educated, artists, and writers—all those who had previously made up the core of psychoanalytic friends and patients—turned to other solutions for their problems. Some turned to casual sex for consolation; others to drugs, or to communes, or to political activism, or to primal screams, or to EST, or to psychedelic roving. Analysts' waiting lists became shorter, then dis-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

appeared. Gaps appeared in appointment books, and fees stopped climbing. What, we analysts wondered, had gone wrong?

What had gone wrong was that psychoanalysis had marched on, but not the popular interpretation of it. For two or three generations, children had been brought up according to principles derived from Freud's earliest theories about instinctual toleration. But, while the popularizers of psychoanalysis, and even some of its practitioners, remained stubbornly attached to their oversimplified, anti-bourgeois sexual beliefs, the new generation of postwar American medical analysts had gone out of the social-philosophy business.

Freud's clinical observations since the publication of *Studies on Hysteria* had led him to make many revisions in his ideas of symptom formation and of the way the mind functioned, all of which had resulted, by 1926, in his abandonment of the dammed-up-libido idea and of the notion that sexual discharge was the sole arbiter of mental health. It was the decline of the old Id Psychology—the study of sexual and aggressive instincts—and the birth of what was to become known as Ego Psychology.

In modern psychoanalysis, adaptation is the criterion of health. Theoretically, the mentally healthiest individual is no longer the most sexually gratified one, but the one who is best adapted to the world in which he lives—the individual who, in theory, has reached an equilibrium between the gratification of his instinctual needs, his moral needs, and the demands of reality. In modern psychoanalysis, old-fashioned attributes such as patience, fortitude, and common sense took on new value and new names, e.g., "impulse control," "frustration tolerance," and "reality testing."

The changes in the emphases of psychoanalytic thinking and psychoanalytic practice left most of the lay supporters of the psychoanalytic movement—including sociologists, literary critics, educators, and journalists—still clinging to Freud's 1908 view. And they, not the reformed psychoanalytic practitioners, were the shapers of the American youth culture that emerged in the late sixties.

Some generations pride themselves on their moral values, some on their instinctual values. The youth of the sixties were narcissistic about both—in fact moralistic about their instinc-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tual life. The grown-ups, and their world of reason, control, and realism, were vilified. Childhood, and its passion for illimitable sensuality, wishful thinking, and magical fantasy, was glorified. These values were the unintended consequences of a vulgar Freudian social trend begun three generations earlier. It would, of course, be overly simple to conclude that any single factor can explain the complexities of an epoch like the sixties. But, to the degree that the cultural transformations of that period were characterized by an excess of instinctualized attitudes and behaviors, Freud's early theories, distorted and misunderstood, played a significant role.

Yet, although psychoanalysis had contributed to the values of the political and cultural Left for half a century, the Left became increasingly hostile to psychoanalysis. Currently, there is no greater object of derision and contempt than psychoanalysis to the articulate Left of the baby-boom generation. It is a laughingstock to TV and film makers; it is subject to the most ham-handed attacks in the *New York Review of Books* and the *New York Times*; and it is scorned in academia.

This is surprising to the liberal psychoanalysts who still huddle together in the bourgeois enclaves of the coastal cultures. How did it happen? It started, as in so many tragicomedies, with hubris. It had been a mistake—a mistake of which Freud himself had not been guilty—for American analysts to hold out unrealistic expectations, to not acknowledge the limitations of psychoanalysis. And, by the sixties, the backlash against psychoanalysis had begun. First, it was the analytic horror stories. In the fifties, there had been vivid analytic success stories of dedicated analysts who brought their patients from misery to freedom and fulfillment—*Fight Against Fears* by *New York Times* journalist Lucy Freeman and Hannah Green's *I Never Promised You A Rose Garden* readily come to mind. But the 1970s brought a crop of analytic disillusionments. Among the most celebrated was Dan Wakefield's *The God That Failed*, which described the disappointing experience of his treatment for alcoholism. And then Chestnut Lodge—famous for treating Hannah Green—made the headlines when it was sued by a physician who claimed that the hospital had mistreated him by giving him psychotherapy instead of medication.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Left against Freud

The central issues of the Left in the twenties and thirties focused on how to redistribute power and wealth. Today, these issues have become transmuted by the articulate young members of the Left into issues centering on race, gender, and sexuality: how to achieve some mythic state of equality for blacks, women, and homosexuals.

This makes psychoanalysis—with its view that men and women have important basic differences, physical and mental, and that the misery of man is to be found in his ontogenetic past and not in his political-economic present—quite incompatible with the ideology of today's Left. But feminists have found their own special reasons for despising analysis.

Betty Friedan struck the first blow for women's psychological liberation in 1963 when she blamed Freud for the prevalence in America of the "feminine mystique." Her book managed to hit a responsive chord in the souls of countless upper-middle-class, college-educated women suffering lives of quiet suburban desperation. Many, especially those isolated from their families of origin, felt imprisoned in their roles as mothers and homemakers, and Friedan argued that these roles had been thrust on them by Freud and his followers. Friedan maintained that Freud urged women to find fulfillment in domesticity because education and careers masculinized them.

Friedan was followed in the 1970s by Kate Millet, who held that Freud was "beyond question the strongest individual counter-revolutionary force" against women's liberation. Though there is a grain of truth in these attacks, they are based on misunderstandings of Freud's writings and ignorance of later, more sophisticated contributions to female psychology. Modern psychoanalysis does not view men as superior to women—only as different in their needs and sensitivities.

Homosexuals have their own quarrels with psychoanalysis, even though Freud rescued homosexuality from the nineteenth-century view that it is immoral and "degenerate." He introduced a new way of looking at homosexuality—seeing it as a stage in psychosexual development on the way to heterosexuality—a developmental interruption caused by an admixture of constitutional and environmental factors. He was of two minds about whether it was a pathological phenomenon, and doubt-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ful about the possibility of transforming a homosexual into a heterosexual.

Modern psychoanalysts, however, continued until recently to see homosexuality as a form of psychopathology. Disregarding Freud's therapeutic pessimism, they began to treat homosexuals of all types and found certain common patterns of development, e.g., a family constellation in which there was a strong, close-binding mother and a weak or absent father. The treatment was most effective, if it worked at all, in the patients who were most conflicted about their homosexuality.

But, in 1973, the American Psychiatric Association, under pressure from homosexual activists and sympathetic psychiatrists, ruled that homosexuality was no longer to be considered as a diagnostic category. This controversial decision was opposed by members of the American Psychoanalytic Association and is still opposed by a large number of psychiatrists and analysts.

What is even more intolerable about psychoanalysis to the Left is its non-group, non-social view of pathology and human nature. Men do not kill because they have no jobs; boys do not rape because their midnight basketball program has been canceled; girls do not become pregnant because they are poor; drug addiction is not caused by a sick society. Most psychoanalysts believe that human psychopathology, whether mild or severe, is caused by a combination of psychological and biological factors. It's not economics, stupid; it's early family experience and genetics transmuted into individual motivation and psychology. Psychoanalysis is a psychology of individuals and internal motivation.

In contrast, the psychology of the Left is a psychology that emphasizes external motivation. An adult behaves in a certain way because external forces make him act that way; he is the victim of those external forces. The psychology of the Left maintains that, if you change the environment, you can change the behavior. If one were to characterize the Left's utopian agenda, it would consist of the denial and devaluation of individual human differences. Everyone should be equal because everyone should be alike. There should be no differences between the sexes, no competition, no racial differences, and no incest taboos or social boundaries. We should all be one brown-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ish, androgynous, sexually uninhibited, aggressionless commune in which no work is required because food is abundant, and no protection is needed because there are no enemies. There would, of course, be no such thing as possessiveness because there would be no possessions—everything would belong to everyone—no envy because no one would have anything that anyone else would not have, no jealousy because there would be no attachments, and no greed because there would be no dearth.

Hobbes versus Rousseau

The modern psychoanalytic view of human nature, based on long-term observation of human beings of all ages and on the findings of biology, is incompatible with the Left's neo-Rousseauian view of infinite perfectibility and radical equality. It is more akin to Hobbes's view of man than Rousseau's, and more akin to the Grand Inquisitor's than Alyosha's. It would assert that man is born helpless and, therefore, needy and egocentric; that the individual child's biological immaturity is the basis of the unreasonable, intemperate, and universal passions of childhood—greed, selfishness, envy, jealousy, rage, and competitiveness; that it takes a decade or more of in-family training and education to help children gain control over these passions; that the best chance for this to occur is in the context of a healthy family life with two parents who can share the burdens and responsibilities of parenting.

The psychoanalytic view of man also suggests that he is in a state of delicate balance between his infantile passions, his conscience, and the demands and temptations of reality. The tendency toward human passion and the pleasure-unpleasure principle are ubiquitous and constantly pulling at man's soul, and it requires hard work to overcome these forces of nature. The only way to control excessive passion is through internal and external constraints. Without the inner sanction of the conscience and the external sanction of law, religion, and morality, civilization is impossible. Thus one of the ironies inherent in the vicissitudes of politics and culture as we come to the end of this century is that modern psychoanalytic thinking, though it is despised by many on the right, is more consonant with conservative values than with liberal ones.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

But of all the ironies in this story, perhaps the most interesting is the difference between the effect of medical psychoanalysis on a single individual and of Freudianism on a culture. One of the main effects of psychoanalytic treatment on an individual is the diminution of the power of infantile fantasies over the individual's life. Sooner or later one accepts the passing of childhood's yearnings. And, looking backward at the effect of our culture of 100 years of Freudian *Weltanschauung*, one can see no change in human nature—it remains as firmly rooted in childhood wishful thinking as ever. In this Freud may have been right—a modern tragic chorus: Man cannot outrun his past.

Where Freud went wrong, and the rest of us analysts too, was in letting psychoanalysis off the couch. Seduced by some limited success inside and much adulation outside the consulting room, we succumbed to our own infantile fantasies of omniscience and acted as though analysis had the power to solve problems in the real world. With a little luck, it can do considerable good for an individual patient. Outside, in the world of values, it can only be debased, misunderstood, and misused as ideology.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Cleaning up Superfund

W. KIP VISCUSI & JAMES T. HAMILTON

THE cleanup of hazardous wastes is the number one environmental concern of the American people. The government's response: the Environmental Protection Agency (EPA) launched its Superfund program, which was established by Congress in 1980 and reformed in 1986.

But, though not even two decades old, the Superfund effort is now a major target of Congress in its regulatory reform efforts. There are two main sources of dissatisfaction. First, cleanups of hazardous wastes are expensive, averaging $25.7 million per site. Superfund expenditures increased from under $400 million in 1985 to over $1.4 billion in 1995 and continue to be above the $1 billion mark even after recent budgetary cutbacks. Estimates of the total cleanup costs incurred since the program's inception range from $20 billion to $30 billion, about half of which has been borne by private parties. Second, there is a general sense that these cleanup expenditures have not delivered much reduction in risk. Are we devoting

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

our resources to eliminating truly substantial hazards or does Superfund squander society's resources on trivial risks?

Three reform principles

In his 1993 book *Breaking the Vicious Circle*, Stephen Breyer, a Clinton appointee to the U.S. Supreme Court, recounted how cleanup efforts, by design, achieve very little:

> Let me provide some examples. The first comes from a case in my own court, *United States v. Ottati & Goss*, arising out of a ten-year effort to force cleanup of a toxic waste dump in southern New Hampshire. The site was mostly cleaned up. All but one of the private parties had settled. The remaining private party litigated the cost of cleaning up the last little bit, a cost of about $9.3 million to remove a small amount of highly diluted PCBs and "volatile organic compounds" (benzene and gasoline components) by incinerating the dirt. How much extra safety did this $9.3 million buy? The forty-thousand-page record of this ten-year effort indicated (and all the parties seemed to agree) that, without the extra expenditure, the waste dump was clean enough for children playing on the site to eat small amounts of dirt daily for 70 days each year without significant harm. Burning the soil would have made it clean enough for the children to eat small amounts daily for 245 days per year without significant harm. But there were no dirt-eating children playing in the area, for it was a swamp. Nor were dirt-eating children likely to appear there, for future building seemed unlikely. The parties also agreed that at least half of the volatile organic chemicals would likely evaporate by the year 2000. To spend $9.3 million to protect non-existent dirt-eating children is what I mean by the problem of "the last 10 percent."

Such misallocation is commonplace. Indeed, elements present in Breyer's example are embedded in the entire EPA approach. In answering the question—how clean is clean?—EPA should follow three principles: assess risks accurately, determine the extent of the population exposed to the risk, and strive for an appropriate balance between benefits and costs.

Although these principles may seem obvious and unobjectionable, none of the three is reflected in the current approach. Establishing them is essential even if financial reforms to relieve some firms of liability are implemented. For relieving some private parties of Superfund costs does not eliminate the need for targeting public expenditures wisely.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Moreover, a sensible targeting of resources will also eliminate needless cost expenditures and produce more immediate and real risk reductions than the current effort.

Assess risks accurately

EPA does not target its cleanup efforts randomly.[1] Each hazardous waste site is subjected to a comprehensive assessment of the risks and cleanup costs, which is then used to select which sites to clean up and what actions to take.

To understand the reasons for the current policy performance, it is helpful to review current risk-assessment practices. A primary impetus for hazardous waste cleanups is the potential cancer risk from chemical exposures. For the different mechanisms of exposure, EPA assesses the potential risk that would be present if a person was exposed to the chemical. This individual risk probability is a principal policy trigger for cleanup actions.

The assessed individual cancer risk is the risk that an individual would experience over a lifetime from 30 years of exposure. If the cancer risk is greater than 10^{-4}, then the site must be cleaned up; if the risk is between 10^{-4} and 10^{-6}, then cleanup is at the discretion of regional officials; and if the estimated risk is less than 10^{-6}, cleanup is not generally warranted, though this prohibition can be overridden.

This numerical precision of estimated cancer risks, replete with multiple digits of zeros to capture fine gradations of risk, is, however, misleading; for the EPA does not, in fact, assess the real risks associated with Superfund sites. Rather, the analyses focus on worst-case outcomes. In assessing the risks from ground-water contamination, for example, the agency often uses upper bound, or 95th percentile, values for several different components of its risk calculation—the ingestion rate for ground water, the frequency of exposure to contaminated ground water, the duration of such exposure, the concentration of hazardous chemicals, and the potential toxicity of these

[1] Our analysis is concerned with remediation action and does not address emergency removals, which are treated differently. The emergency removals are undertaken to address immediate hazards identified at sites. Cleanup goals for remediations can also be driven by other factors, such as noncancer risks and other state and federal environmental standards.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

chemicals. For each of these parameters, a conservative estimate is used, usually one that will occur 5 percent or less of the time.

The combined influence of these conservative factors is that the calculated risks greatly overstate the expected risks from these sites. If each parameter is gauged conservatively, the net conservatism regarding the risk estimate is much greater. Our estimates, using EPA estimates of the mean values of the various parameters, indicate that the true risks will be below the assessed risks more than 99 percent of the time.

Recognizing this conservative bias influences how one interprets the true significance of EPA's policy criteria. Officially, these criteria are linked to lifetime cancer-risk critical values of between 10^{-4} and 10^{-6}. Taking into account the period of exposure and the conservative bias, these policy cutoff values actually pertain to annual cancer risks that are over 100 times smaller. Thus, after correcting for biases in risk assessment, the EPA guideline requires cleanup whenever the actual annual cancer risk is at least 10^{-6}, and permits discretionary cleanup for risks between 10^{-6} and 10^{-8}, and disallows cleanup for risks smaller than 10^{-8}.

Should such seemingly small probabilities alone serve as the trigger for expensive government cleanup efforts? The one-in-a-million threshold for required cleanup is, in fact, quite comparable to many of the risks that we encounter in our daily lives, e.g., eating 40 tablespoons of peanut butter or traveling 10 miles by bicycle. Yet we do not abandon such pursuits simply because of a minuscule hazard.

The existence of a small risk of cancer, if exposed to hazardous wastes alone, is not a sufficient basis for policy. We also care about how many people are exposed, to what extent, and what the cost-benefit tradeoff is to eliminate the risk. But, at present, these components do not enter the EPA risk assessments.

How many at risk?

The Superfund risk estimates are for a hypothetical individual who might be exposed to the risk. Two features of this assessment are noteworthy. First, it is not necessary that any-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

body actually be exposed to the risk for it to be calculated. Second, the extent of the population exposed to the risk is not considered by the EPA.

Potential risks to an exposed individual are of two types. A current risk arises if current land use could lead to a risk to an exposed individual either now or in the future. A second category of risks are designated "future risks." These risks are those that might arise from a *potential* future land use that is a change from current land use. Conversion of a swamp into a residential area, as in Breyer's example, would be such a change in land use.

The great preponderance of risks at Superfund sites are of the latter type, future risks to populations not now exposed to the hazard. Overall, 68 percent of the ways in which cancer risks could arise—called "cancer pathways"—are actually *future* risk pathways. Moreover, most of the sources of large risks at sites involve hypothetical future risks. After weighting the different risk pathways for the magnitude of the risk level, we found that 94 percent of the cancer-pathway risks pertain to future risks.

Somewhat surprisingly, the most prevalent type of exposure that drives EPA analyses, both in terms of its frequency as well as the magnitude of the risk, is the risk to future on-site residents. Risk analysts hypothesize, in other words, that in future years people will not avoid Superfund sites. Rather, they will choose to live in residential areas on Superfund sites, even though these sites have been put on the EPA's National Priorities List and targeted for cleanup.

This hypothetical enthusiasm for living on Superfund sites is implausible in light of the fact that hazardous waste sites rank number one on the public's list of environmental fears. In a free market, living on a Superfund site is a choice most consumers are not likely to make. Moreover, it is a choice that policy makers can prevent through limited policy actions that fall short of complete cleanup, such as deed restrictions and other institutional controls that prevent residential areas from being located on hazardous waste sites. It is not necessary to remove all hazardous waste from a site to prevent future residents from being exposed to it—simply prohibit them from living there.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

A missing element from EPA analyses—the extent of the population exposed to the risk—can be determined by matching Census Bureau population data to the risks at particular Superfund sites. Focusing on 99 sites for which information of the mean risk (rather than simply of the upper bound) values is available, we estimated the total lifetime cases of cancer prevented at these sites to be 204.5. However, the distribution of this risk varies considerably. In our sample, a single site, the Westinghouse PCB site near Sunnyvale, California, accounted for 202 of the 204.5 expected cases of cancer. Yet the true risk for this site is likely to be much less. One of the most contaminated areas at the site has been paved over. Consequently, the likelihood that a large number of residents will come into contact with this contaminated soil is low.

At most sites, the cancer risk is negligible. Overall, out of this sample of 99 sites, one site has one or more expected cases of cancer associated with it, 3 sites have between 0.1 and 1 expected cases of cancer, and 73 sites have fewer than 0.01 expected cases of cancer. A total risk of 0.01 expected cases of cancer to a large population involves a small risk for any particular individual. If there are 10,000 people exposed to the risk, then 0.01 lifetime expected cancers for a site implies an individual cancer risk of one in one million based on a lifetime of exposure.

Evaluating where the exposed populations are, and how many are at risk, is essential to deciding which sites to clean up and how much to clean them. Because real risks and hypothetical future risks are treated with the same urgency, present policies miss many important opportunities for saving lives. But the EPA can easily eliminate these biases by incorporating population exposures into its analysis.

How much bang for the buck?

Even if the risks posed by hazardous waste sites are small, it nevertheless may be sensible to eliminate them if this can be done cheaply. The chief measure for assessing the cost effectiveness of expenditures is the cost per expected life saved or, in this case, the cost per expected case of cancer avoided. These measures tell us how much we are getting for our safety dollar.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Unfortunately, these numbers suggest a fairly low return on the dollar (using mean risk assessments and 3 percent discounting). At 67 of the 99 sites analyzed, the cost per expected case of cancer prevented is in excess of $1 billion. The cost per case of cancer prevented is between $100 million and $1 billion for 18 sites, above $5 million and below $100 million at six sites, and under $5 million at one site. At two sites, there are no cases of cancer prevented at all, so the cost per case of cancer is infinite. The mean cost per case of cancer prevented across these sites is $374 billion, and the median cost per case of cancer prevented is $3.6 billion.

To put these staggering numbers in perspective, the implicit value of saving a statistical life based on the wage tradeoffs made by workers in hazardous jobs and in other private risky choices is between $3 million and $7 million, with a midpoint of around $5 million. But the U.S. Department of Transportation refuses to pursue any policy, such as improved guardrails on highways, that costs more than $3 million per statistical life saved. Only truly exceptional Superfund sites would pass a cost-benefit test using such cutoffs.

Even if one were not wed to a cost-benefit approach, the advantages of targeting cleanup expenditures are considerable. Risk analysts hypothesize that there is a 90:10 phenomenon that often characterizes risk regulation contexts. Society may spend 90 percent of its resources to achieve the last 10 percent of the risk-reduction benefits. If we look across Superfund sites, we can see how, as we spend more on cleanup, the benefits derived lessen.

For example, for the most effective 5 percent of its expenditures, EPA eliminates 99.46 percent of the risk addressed by its remediation efforts. For the most effective 25 percent of its expenditures, EPA eliminates 99.86 percent of the risk. Once 45 percent of the expenditures are made, 99.95 percent of the cancer cases are eliminated. Put somewhat differently, 55 percent of the expenditures are made to eliminate under 0.1 percent of the risk.

Although EPA reaps virtually all the cancer-reduction gains with the initial group of expenditures, this result alone does not imply that additional expenditures are not worthwhile. It could be, for example, that the initial expenditures are ex-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tremely productive, but subsequent expenditures would still be desirable as well. To make this assessment, we need to consider the marginal cost per case of cancer averted at different levels of expenditure.

These costs per case of cancer suggest that the policies fall below a reasonable cost-effectiveness cutoff very quickly. On average, the spending per case of cancer over the most effective 5 percent of cost allocations is in the desirable range, as it is only $389,000. Thus the initial Superfund expenditures are clearly worthwhile. However, once we get beyond these initial allocations, the cost per case of cancer averted rises quite steeply. More than 95 percent of EPA's expenditures on Superfund will entail a cost per case of cancer in excess of $100 million per case. This is clearly unreasonable.

Particularly striking is the last 10 percent of expenditures, where the EPA spends more than $100 billion per case of cancer prevented. That is to say, the last 10 percent of expenditures have virtually no cancer-risk reduction whatsoever. If our objective is risk reduction, clearly society can do better.

In these situations, in which there are wide disparities in efficacy, the benefits of targeting are enormous. By picking the targets where there are real risks and exposed populations, rather than spreading resources uniformly irrespective of these concerns, we can achieve virtually all the gains from Superfund at a fraction of the present costs.

Wise reform

The Superfund program has not been a model for effective government policy making. Public fears of hazardous waste sites, fueled by the specter of Love Canal, led the government to launch an ambitious cleanup effort. The failure to make a significant dent in the hazardous-waste problem, and the often substantial cost of the cleanups that have been undertaken, has created pressures for financial relief.

Reform efforts in Congress and at EPA, however, need to be more fundamental than simply reallocating the cost. The key question is the set of procedures used to decide which sites to cleanup and how clean to make them. Current risk policies miss the mark by failing to assess risks accurately, by ignoring the extent of the populations at risk, and by failing to

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ensure that the policy achieves reasonable risk-reduction benefits for the monies expended. By adopting the three simple principles for policy reform which we have outlined here, Congress can create a more effective and efficient Superfund.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

How immigration harms minorities

NORMAN MATLOFF

THE popular press tends to portray proposals to reduce yearly immigration quotas as pitting whites against nonwhites. Yet they are overlooking the fact that the downsides of immigration often fall more heavily and more directly on nonwhites, i.e., on blacks, Asians, and Latino Americans. As one Mexican American put it, when immigration's negative impacts come, "We get hit first."

It is thus no wonder that many minorities strongly support immigration reform, both in terms of legal and illegal immigration. An Empire State Survey taken in 1993 found that half of the immigrants in New York agreed with the statement, "Immigration has made this city a worse place in which to live." In California's 1994 vote on Proposition 187, the rates of "yes" votes among blacks, Asian Americans, and immigrants were all near the overall statewide rate of 59 percent. A Hispanic USA survey found that up to 80 percent of Mexican Americans agreed that "there are too many immigrants."

And, though it has become politically popular to draw a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

sharp line between legal and illegal immigration, the fact is that minorities tend not to make this distinction, since the problems arising from the two kinds are typically the same—overcrowded schools and depressed wages. Moreover, the yearly volume of legal immigration is several times larger than that of the illegal kind. Thus, in this article, the term "immigration" will refer both to legal and illegal immigration, with an implicit focus on the former.

Most analyses of the impact of immigration focus on economic issues. These are not unimportant, and I will describe the economic harms brought upon minorities by immigration. Yet the noneconomic problems are at least as important, and probably more so. The current high yearly immigration quotas are contributing to a pervasive (though largely unconsciously created and maintained) new American caste system among U.S. minorities, with Asian immigrants at the top, native blacks on the bottom, and Latino immigrants in between. This has the unfortunate effect of undermining America's commitment to improving the condition of blacks.

Not enough jobs

Even among those who claim that positive economic effects flow from immigration, or who downplay the negative effects, there is a general consensus that earlier-arriving immigrants are hurt by the addition of later-arriving immigrants. George Borjas of Harvard University, for instance, has found that a 10 percent increase in immigration populations reduces immigrant wages by 10 percent (a staggering statistic, in view of the fact that the 1990 Immigration Act increased yearly immigration quotas by 40 percent). One major factor is that poor English skills force immigrants who had been professionals in their native lands to seek low-skilled jobs in immigrant communities. This swells the number of workers seeking such jobs, depressing wages.

While economic theory would suggest that immigration would slow as wages fall, other forces are apparently at work: would-be immigrants often do not know of such wage trends; they may regard even weakened employment opportunities here as superior to those back home; and they may believe that opportunities are better here for their children.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The complex econometric models that statisticians use to understand such trends are helpful; they are, however, no substitute for direct observation. For example, Po Wong, director of the Chinese Newcomers Service Center in San Francisco, told National Public Radio that, of the 11,000 new arrivals who tried to find work through his agency, only 2 percent were successfully placed. More recently, he told journalist Sanford Ungar,

> I don't think our community is equipped to welcome this large a number. It is especially difficult to find employment for those who speak only Chinese, who have very little education, or who have never acquired a skill to compete in this new market. It's very depressing to see so many people come here looking for work.

The pattern is the same in Latino immigrant communities. When asked why most Latino Americans wish to see reduced immigration, Antonia Hernandez, president of the Mexican American Legal Defense and Educational Fund, explained that

> migration, legal and undocumented, does have an impact on our economy ... [in] competition within the Latino community.... There is an issue of wage depression, as in the garment industry, which is predominantly immigrant, of keeping wages down because of the flow of traffic of people.

The competition for jobs among Latinos was illustrated in a rather dramatic manner in a recent article, "Immigrants Split Over Job Scarcity: Legal Residents in Marin Tell INS About Illegals," in the *San Francisco Chronicle*. It begins, "A shortage of jobs is provoking cutthroat rivalry among immigrant day laborers in San Rafael's Canal Area, where some [legal immigrants] are getting ahead by turning in their undocumented peers to the INS."

Those immigrants who bring some savings with them to the United States may seem on the surface to be better off than day laborers, as they can start businesses. Indeed, entrepreneurship is taken by many pro-immigration analysts to be a major selling point for high-immigration policies. Yet the entrepreneurs suffer the same problems as the workers do. Not being familiar with American culture and business, the would-be immigrant entrepreneur will typically start the same kind

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of business as his friends and relatives have—thus creating an oversupply of businesses of that type. Sociologist Peter Kwong of Hunter College has written that "in the 1980s, business in [New York's] Chinatown reached the point of saturation: too many immigrants, too many new businesses, and exorbitant rents. Suicidal competition developed throughout the community." In 1995, Sung Soo Kim, president of the Korean-American Small Business Service Center in New York, noted that "we are in the middle of a tragedy. Last year, we had 700 stores open but 900 close. Growth has completely stopped."

The current yearly rates of immigration are higher than the immigrant communities themselves can stand. Sadly, those who profess support for immigrants are often the least concerned about this point. Ethnic political organizations oppose reductions in yearly immigration quotas, in spite of the support for such reductions among their putative constituents. (Few, if any, of these organizations have large memberships among the groups that they claim to represent.)

Faulty econometrics

Evidence suggests that the surplus of labor then spills out of the immigrant-enclave economies into the surrounding non-immigrant economy. Since the immigrants tend to cluster in urban areas that contain large numbers of blacks, the latter population is particularly hurt. In regions with high immigration levels, low-skilled jobs in hotels, restaurants, airports, and so on—which could be held by African Americans (and often used to be)—are now typically held by immigrants. For example, the traveler at the San Francisco International Airport will see a workforce dominated by immigrants. By contrast, at the Baltimore and Philadelphia airports, areas in which there are many fewer immigrants, one sees many black employees, suggesting that the claim that blacks refuse to do such work is wrong.

In fact, a now-famous study by the General Accounting Office found that employers in Los Angeles had deliberately and systematically fired black janitors and replaced them with lower-paid immigrants. In most cases, however, the effects are less direct. When jobs become open through attrition or company expansion, the potential is produced for increases in

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

black participation in a particular market—but that potential is not realized, because immigrants are often hired instead.

Econometric models may not detect this preference for immigrants over blacks. They may report only a small reduction in black employment in the market, missing the fact that such employment should have increased. Though economic studies performed entirely within immigrant labor markets are more clear-cut, econometric models are often powerless to detect effects outside the immigrant communities and, in many cases, will actually produce potentially misleading results. Data-oriented immigration analysts concede, indeed complain, that full data on immigration are unavailable.

One problem in such models is that the analysts do not know what data to use. Consider a pair of variables, X and Y, whose relationship we wish to study. One of the most frequent errors is to omit from the equation an additional explanatory variable, W, known as a covariate. That is, we predict Y from X alone when we should be expressing Y as a function of both X and W (or of X, W, and several other covariates). Model misspecification of this sort could result in wrong conclusions about relations. For example, some studies of multiple cities have found only very weak negative correlations between immigration (X) and employment (Y) rates. But William Frey of the University of Michigan has found that many natives are fleeing the high-immigration urban regions, often due to poor employment opportunities. If the very people whose job displacement we wish to detect have left town, failure to take into account this "W" could lead to false optimism about immigration's impact.

Moreover, immigrants are naturally attracted to cities with growing economies. This phenomenon, holding everything else constant, would produce an apparent positive correlation between immigration and employment, but it would be wrong to conclude, merely from such a statistic, that the immigrants were causing the growth—when in reality the growth may have been causing the immigration. The only way to resolve such a causation question would again be to examine covariates, in this case variables that measure fundamental growth factors, like infrastructure quality and business policies.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Blue-collar competition

But why do employers apparently prefer to hire immigrants over African Americans? First, because of networked hiring, employing immigrants is more convenient. Employers have little incentive to seek out black applicants for job openings when their immigrant employees are happy to provide their bosses with job applications from the immigrants' numerous friends and relatives. As a result, according to Richard Rothstein, a labor organizer and columnist for the Spanish-language *La Opinion*, "In the garment districts of Los Angeles, New York, or Miami, entire plants are staffed by immigrants from the same village in Mexico, El Salvador or China." Significantly, Rothstein adds, "once such powerful networks are established, policy is impotent to break them."

Second, many employers think that immigrants are better and more reliable workers than blacks. Latino workers in Los Angeles, according to Peter Skerry of the Brookings Institution, characteristically use carpools to get to work, whereas blacks do not. Thus employers conclude that a black worker might not show up for work if his car breaks down. One might ask, "Why blame the immigrants?" "Why can't blacks form networks and use carpools?" The answer is probably cultural; but, in any case, the availability of immigrant labor gives employers no reason to develop such work practices and skills among poor blacks.

Much has been made of immigrant entrepreneurship, with the implicit claim that this provides jobs for natives. Immigrant entrepreneurs, however, tend to hire other immigrants, often members of their own families. Further, the replacement of native businesses by immigrant enterprises often produces an erosion of the tax base, according to sociologist Timothy Fong's analysis of Chinese immigration in southern California. Typically, a large, formerly non-immigrant establishment, such as an automobile dealership, is carved into several small low-profit immigrant shops whose collective sales taxes are much smaller than those produced by the original business.

It is claimed, however, that, in spite of problems of job displacement, immigration produces a net gain for natives when the job-creation power of immigrant consumerism is factored

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in. There is no doubt that immigration increases the absolute number of jobs, but it is easily demonstrated that the net change in jobs available to natives is negative. On a per-capita basis, immigrants are poorer than natives. Being poorer, the immigrants have lower levels of consumerism and thus create fewer jobs, relative to natives. Yet immigrants have the same or higher levels of workforce participation per capita as natives. In other words, immigrants do not generate as many new jobs as they hold—a net job loss for natives.

Such an argument is, of course, useful only as a first approximation. Yet more detailed inspection reveals the situation to be even worse. For example, let us break down immigrant job-creation effects according to skill level. Some high-skilled jobs might be created for the middle class, but whatever low-skilled jobs are created will for the most part be taken by the immigrants themselves. A glance at employment patterns in the low-skilled sectors of the labor markets in any city with a large immigrant population shows that there are virtually no low-skilled occupational categories in which immigrants have not become dominant.

White-collar blues

Though the focus of many analyses is on low-skilled jobs, it should be noted that there are some adverse effects in professional areas as well. Black teachers and social workers in Los Angeles are being squeezed out by immigrants, who are often not only bilingual but also identify culturally with their immigrant clientele.

Another example of adverse impacts on minority access to professional jobs involves the computer industry. Because employers hire many foreign nationals and sponsor them for immigration, many Asian-American university students who major in computer science face reduced employment opportunities, either just after graduation or later in their careers. Of the hundreds of computer companies in the San Francisco Bay Area, only two (Oracle and Sybase) recruit graduates from San Francisco State University, a predominantly Asian-American school. At UC Davis, where over one-half of the students in computer science are Asian American, the situation is better, but companies such as Microsoft only recently started

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

recruiting graduates from there. Many new graduates must settle for semi-technical jobs, such as customer interface or system administrator.

It appears that foreign nationals are cheaper to hire. A statistical analysis I performed on the 1990 Census data revealed that average salaries for foreign-born computer professionals in Silicon Valley were nearly $7,000 lower than among natives of the same age and level of education.[1]

Finally, one of the most important items in the immigration debate is the question of whether immigration produces a net fiscal gain or loss. Numerous clever accounting schemes have been advanced, claiming to answer this question in one direction or the other. But the problem is that, due to methodological difficulties, many government expenditures are not included in such studies. This is not a problem for those studies that claim a fiscal loss, but clearly it renders suspect the studies that claim a fiscal gain.

A simple and direct analysis explains why. For the moment, consider only welfare services. Borjas recently found that an alarming 40 percent of all welfare dollars in California are going to immigrant households. The Urban Institute has found that the immigrants now entering the United States (not just California) use more welfare per capita than natives and have a lower average income than natives. The latter point presumably implies that immigrants are paying less in taxes per capita than natives. In other words, compared to natives, immigrants are paying less in taxes and using more in welfare. This indicates that there is a fiscal loss for natives. The two other main service categories in which there is a disparity in usage rates between immigrants and natives are education and Social Security/Medicare. Immigrants on average have more children than do natives; so on the educational front, we again see a fiscal loss for the natives. Though immigrants are on average

[1] A recent study by the pro-immigration Cato Institute found that foreign Ph.D.s were paid more than their native counterparts. However, it did not adjust for important covariates, such as geography and job type. There is a very substantial regional variation in wages in the computer field, and immigrant professionals tend to seek work in high-cost-of-living cities. Immigrant Ph.D.s tend to prefer work in the higher-paying industrial sector, rather than in academia. An analysis by UCLA Asian-American studies professor Paul Ong found that foreign-born engineers were paid up to one-third less than natives.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

younger than natives, and thus currently use less in Social Security/Medicare, they too will age and eventually use these programs. On the whole, therefore, the fact that immigrants are on average poorer than natives strongly suggests an overall net fiscal loss.

An American caste system

Aside from the economic effects of immigration, there are political consequence too. In the past, African Americans could count on a certain degree of sympathetic attention from government and the media. They now must compete with the immigrant-dominant minorities (IDMs) for such attention. More often than not, the interests of IDMs and blacks conflict. In California, the largest immigrant-receiving state, African Americans are on the road to becoming what I term the Forgotten Minority.

Consider welfare, one area in particular where immigration harms African Americans. The public's backlash against welfare is owing to increased welfare costs driven in part by increases in IDMs who receive welfare. Elderly Chinese, Korean, and other Asian immigrants all receive welfare disproportionate to their numbers. This has, in part, provided motivation for congressional welfare-reform proposals in 1994 and 1995. After heavy pressure from Asian advocacy groups, the proposals were weakened to the point that they did virtually nothing to address the problem of immigrants on welfare.

The revised bills (still under negotiation, as of March 1996) would force a functionally illiterate African-American single parent off welfare while allowing an immigrant couple, with a combined income of well over $100,000, to keep their parents on welfare, in spite of the couple's earlier promise, made as a condition for their parents' immigration, to support them. This inequity is not deliberate, but it does exemplify the rise in power of the various immigrant advocacy groups, and the dwindling influence of black advocates.

Or consider their muscle flexing on the local level. From 1980 to 1993 in San Francisco, according to the *San Francisco Examiner*, the shares of civil-service jobs held by Asians and Latinos increased by 60 percent and 80 percent, respectively, while the share for blacks decreased 80 percent. And then

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

from 1990 to 1993, the volume of city contracts to Asian businesses increased at a rate that was 2.9 times the rate for blacks.

Moreover, the IDM-black competition is becoming more heated, as one may see from an article by UC Berkeley Asian-American Studies professor Elaine Kim, a Korean-American:

> Someone from MALDEF (Mexican-American Legal Defense and Educational Fund) pulled me aside during a meeting about redistricting to point out that due to demographic shifts, Asians and Latinos could work together because we never had very much to begin with. "We have little to lose and a lot to gain by working together," he said "while African-Americans stand to lose their hard-won civil rights gains from the 1960s, given their declining numbers."

Soon afterward, in nearby Oakland, Latinos and Asians successfully proposed a municipal redistricting plan that challenged the one proposed by blacks. Given the commonality of goals of the IDM political activists on some issues, such as bilingual education, one may reasonably project that alliances of IDMs against blacks will proliferate in the future. And though it is true that on some issues (notably affirmative action) Latino activists will side with blacks against Asians, it is clear that immigration is increasing political conflict between IDMs and blacks.

More is not always better

Handled in a sensible manner, immigration adds vigor to our society, broadens our world view, and simply makes America a more interesting place. But our current policy is an illogical hodgepodge in need of reform. Immigration is not the sole root of our problems, but it is certainly exacerbating them and, worse, making them increasingly difficult to solve. Like anything else, it is harmful to have too much of a good thing.

Certainly policy changes are in order. Family-reunification laws, the heart of our immigration policy, typically do not serve the purpose implied by their noble-sounding name. "Family reunification" often brings about chain migration, in which later links in the chain have never even met the earlier links, much less have a desire to "reunify" with them. Bill Ong Hing, a Stanford University law professor and prominent im-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

migration advocate, concedes that jobs, not family ties, are the greatest attraction to immigrants. This leads to much larger influxes of immigrants than can be handled by the communities they join, or by the neighboring black communities. Family-based immigration should be restricted to the nuclear family.

From the point of view of impacts on minorities it would be tempting to shift to a more skills-based immigration policy, but the fact is that, with corporate "downsizing" and the reduction in the defense industry, there is no shortage of skilled labor in the United States today. One of the most powerful lobbyists for immigration, Sun Microsystems, a computer manufacturer, says that it needs to scour the world for the best and the brightest; but they actually seem more interested in hiring the cheapest. Sun boasted in 1993 to the *Los Angeles Times* that it had just hired 50 Russian programmers "at bargain prices."

We should encourage and facilitate the immigration of exceptional talents, but they comprise only a small fraction of those sponsored for immigration by computer-industry employers. Of 56 awards given for industrial innovation by the Association for Computing Machinery since 1980, only one recipient was an immigrant. Of 115 U.S. recipients of computer-related awards given by the Institute of Electrical and Electronic Engineers since 1976, only nine have been to immigrants.

But the bottom line is that the significant problems associated with today's high yearly levels of immigration can only be solved by reducing those levels. In 1990, Congress, without seriously looking into the matter, and mainly in response to pressure groups, decided to increase yearly immigration quotas by 40 percent. Surely it would be reasonable to roll back current levels at least to their pre-1990 levels. As a nation that prides itself on its efforts to foster good race relations, the least we can do for native minorities is to formulate an immigration policy that follows the physician's cardinal rule: "First, do no harm."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

On Justice Clarence Thomas

STEPHEN F. SMITH

IT has been almost five years since Associate Justice Clarence Thomas was confirmed as the 106th Justice of the Supreme Court of the United States. During that time, he has come under sharp and unrelenting criticism from the liberal media. He has also been criticized by those who one would have expected to welcome the ascent of a black American to the pinnacle of his profession: the civil-rights community. To give but one example, at the 1995 convention of the National Association for the Advancement of Colored People (NAACP), Thomas was repeatedly called a "pimp" and a "traitor."

Is all this part of some personal vendetta against Justice Thomas? Maybe in part, but far more is at work here. Simply put, the incessant assaults on Thomas are part of a larger political struggle for the hearts and minds of black America. The traditional liberal black leadership is fighting to maintain its increasingly tenuous hold on power within the black community, and the liberal Democrats to maintain their control over one of their last remaining core constituencies.

Thomas has triggered this struggle because he, more than any other individual, personifies the rise of black conservatism in America. The symbolism is inevitable, for Justice Thomas's seat on the nation's high Court makes him not only one of the most powerful people in America but also the highest ranking black legal officer in the country. It is thus not surprising that civil-rights leaders and other Thomas critics single him out for denunciation. The continued spread of conservative ideas in the black community poses a direct threat to the status quo in that community and could someday fill the leadership vacuum that currently exists there.

The accusations have been many, but the most scandalous is that Thomas holds views that no "true" black person could. It is important to understand at the outset just how absurd the claim is. According to this view, the color of one's skin dic-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tates one's views; so if one is black, one simply must support, for instance, affirmative action or federal welfare programs. The view has a rather paradoxical corollary, namely that one's views dictate one's skin color; thus Thomas is said to be not really black, which is what it means to call him an "Uncle Tom" or a "traitor" to his race.

THE view that all blacks must think alike is racist on its face, as well as untrue: Black people are not, and never have been, monolithic in their views. To the contrary, there has always been a healthy diversity of opinion within the black community, as in the white community. This is true even in regard to civil-rights issues. Most famously perhaps, in the decades that followed enactment of the constitutional amendments abolishing slavery and guaranteeing blacks and all other persons the equal protection of the laws, W. E. B. Du Bois argued for an immediate end to all forms of political and social discrimination. Others, however, favored the more gradual approach of Booker T. Washington. Although it has become fashionable of late to say that Washington was an apologist for segregation, the reality is otherwise. Washington advocated *temporarily* deferring explosive social issues to focus, instead, on achieving economic self-sufficiency and equality for blacks. This debate raged on well after the turn of the century. Indeed, the NAACP got its start in 1910 as a dissenting voice in that debate; the fledgling group began as a challenge to the tyranny of the so-called "Washington machine" and urged, in agreement with Du Bois, that blacks should first fight to win full political and civil equality.

This tradition of dissent within the black community has continued up to the present day. In the early part of the twentieth century, some blacks, including Marcus Garvey, argued against integration and in favor of American blacks moving to Africa or elsewhere. Others, including then-attorney Thurgood Marshall, believed that integration into every aspect of American life was the key to black progress. Similarly, during the 1960s, the mainstream civil-rights movement, led by Martin Luther King, Jr., favored peaceful, nonviolent means of protest, whereas more radical forces, such as Malcolm X and the Black Panther Party, were willing to resort to violence. Today, of course, many in the black community agitate for race-conscious remedies, such as affirmative action, in the belief that white racism constitutes an insuperable barrier to black progress. Others, including Thomas, Glenn Loury, and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Shelby Steele, oppose affirmative action and argue that, having achieved equality before the law and basic civil rights, blacks should now work to improve schools, to rebuild neighborhoods, and to maintain strong family structures. It is clear, therefore, that Thomas's critics are simply wrong in arguing that all blacks do, and must, think alike; there have always been divergent voices in the black community.

Thomas and the other black thinkers who have disagreed with the establishment view cannot, and should not, be dismissed as "traitors" to their race. As Du Bois wrote almost a century ago in defense of himself and other black dissenters of his day: "The hushing of the criticism of honest opponents is a dangerous thing." Free and open debate is, as John Stuart Mill long ago pointed out, vital to progress and the search for truth. It is thus incumbent upon those who truly favor the advancement of blacks to condemn the intolerance of those who would silence Thomas and other black dissenters for something called "thinking white." American blacks have struggled too hard, and for too long, to surrender the precious right to read and to think for themselves—rights that were denied them in slavery—to *any* orthodoxy, black or white.

BESIDES, Thomas's conservative views are well within the black mainstream. Although only 8 percent of blacks surveyed consider themselves Republican, conservative views are, as a general matter, commonplace among blacks. According to a 1992 survey by the Joint Center for Political and Economic Studies, a black liberal think tank, more blacks today describe themselves as "conservative" (33 percent) than as "liberal" (29 percent). The *Washington Post* found, in a series of polls conducted in 1991, that 35 percent of blacks surveyed described themselves as "very conservative" or "conservative." Thomas's views are more representative still in light of the fact that "another 35 percent [of blacks] regard themselves as politically moderate." This means that 70 percent of blacks nationwide have lost faith in liberalism.

The instinctive conservatism of black Americans is also borne out in an array of issue-specific polls. According to a 1995 article in the *Washington Post*,

> Whether or not they accept the label, many blacks hold conservative views. On the death penalty, according to the Joint Center for Political Studies, blacks tilt 48 to 42 in favor. On denying increased welfare payments to welfare recipients who have more

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

children, 58 percent of blacks approve. Roughly three-quarters back mandatory sentences for drug dealers, and 61 percent feel black leaders are too quick to cite racism as an excuse for black crime.

Recent Gallup polls report similar findings. For example, 85 percent of blacks polled support school choice, 53 percent disapprove of mandatory busing, and 77 percent oppose preferential treatment to make up for past discrimination. Moreover, an overwhelming 92 percent of blacks believe in God. With regard to the issue that drove much of the opposition to Thomas's nomination—abortion—polls find that 48 percent of blacks are pro-life, flatly opposing abortion under any circumstances.

It is thus inaccurate to characterize Thomas as holding views that no "true" black person could hold. In fact, Thomas's nomination was successful, in large part, due to blacks who rejected their leadership's opposition to his nomination and successfully pressured key southern Democrats to vote to confirm him. Blacks in the South favored the nomination by almost two to one. Some have suggested that blacks supported his nomination only because he is black and that blacks would support one of "their own" simply to maintain a "black seat" on the Supreme Court. An alternative view, firmly supported by the survey data, is that blacks backed Thomas's nomination because they did not share their leaders' rabid opposition to his conservative opinions.

NOW, five years later, the question is, have Thomas's conservative opinions on racial issues during his tenure on the Supreme Court been good for blacks? Retired U.S. Court of Appeals Judge A. Leon Higginbotham, whom some in the civil-rights community had hoped would succeed the late Justice Thurgood Marshall on the Supreme Court, thinks not. In a recent speech at New York University, Higginbotham argued that Thomas is paving the way to reinstituting "white supremacy" in this country. Thomas's conservative voting record, he surmised, was the result of a deep-seated psychological problem: "racial self-hatred." Higginbotham found it relevant in this regard that Thomas is married to a white woman, Virginia Lamp Thomas, which to Higginbotham is evidence that Thomas "hates black women." Thomas's psychological disorder, Higginbotham concluded, explained why he had constantly voted to "drag blacks to the oppression of the past."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

A tell-tale sign of a weak argument on the merits is resort to *ad hominen* attacks. The Higginbotham diatribe is a case in point. If one considers what Thomas has actually written in his various opinions on affirmative action, redistricting, desegregation, and other issues of particular concern to blacks, it becomes clear that Higginbotham's charges are preposterous.

Foremost among the traditional civil-rights policies criticized by Thomas is affirmative action. Critics of affirmative action generally charge that it is a form of reverse discrimination that harms white males; in contrast, Thomas focuses on the deleterious effects such programs have on *blacks*. As he explained in the 1995 case *Adarand v. Pena*, race-based preference policies "stamp minorities with a badge of inferiority and may cause them to develop dependencies or to adopt an attitude that they are 'entitled' to preferences," which may lead them to fail or, even worse, not even to try to succeed. In fact, Thomas's important, but largely overlooked, 1995 speech to the Federalist Society excoriates "angry white males" who oppose affirmative action based on the same group-focused "victimology" that proponents of affirmative action exhibit.

He further explained his position in the speech:

> The culture of victimology—with its emphasis on the so-called "benevolent state"—delivers an additional (and perhaps worse) blow to dignity and self-worth. When the less fortunate do accomplish something, they are often denied the sense of achievement which is so very important for strengthening and empowering the human spirit.... They are just moving along with the "herd" of other victims. Such individuals also lack any incentive to be independent, because they know that as part of an oppressed group they will neither be singled out for the life choices they make nor capable of distinguishing themselves by their own efforts.

Thomas's message for black America is: It is a mistake to think that you cannot succeed without affirmative action; in fact, you cannot succeed with it.

THOMAS'S insistence on racial colorblindness in the redistricting and voting-rights cases, as in the affirmative-action cases, does not portend, as his critics claim, a new era of white supremacy. In making the contrary assertion, Higginbotham and other Thomas critics implicitly make two assumptions: (1) that citizens can be represented only by candidates of their own race, and (2) that black candidates will never garner enough support from whites to win in non-minor-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ity districts. Both assumptions are ill-founded. As for the first, it should be self-evident that what counts in determining whether a given candidate can represent a particular group of citizens is not his skin color but his position on the issues. When the candidate's positions on the issues accords with the voters', he can represent them—whether or not his skin color reflects a composite of their own. Anyone who doubts this need only ask himself who he would want to be his representative—someone of the same race who held different views or someone of a different race who holds the same views?

As for the claim that blacks cannot be elected except from "majority-minority" electoral districts—electoral districts that are racial safe havens for black candidates—the evidence indicates otherwise. In 1989, the voters of Virginia—the state that in earlier times had led the Confederacy and later the opposition to desegregation—elected L. Douglas Wilder, a black man, as their governor. Virginia is only 18 percent black. Wilder's election is no fluke, as the election to Congress of Carol Mosely Braun, Gary Franks, and J. C. Watts, all from majority-white jurisdictions, indicates. In fact, 83 percent of big-city black mayors over the past 30 years have won elections in majority-white cities. To be sure, racially polarized voting does occur occasionally, but that unfortunate phenomenon is the exception, not the rule.

There is an added dimension to the creation of majority-minority districts favored by the traditional civil-rights leadership. In his separate opinion in *Holder v. Hall*, the 1994 voting-rights case, Thomas argued that the so-called "black-preferred" candidates—that is, those who are elected from majority-minority districts—are, almost of necessity, ill-equipped to play any effective or meaningful role in the elected body at large. When such districts are created, "white-preferred candidates" need not be responsive to the concerns of blacks because the vast majority of black citizens are packed into compact districts represented by "their own" candidates. In a regime of majority-minority districts, then, the vast majority of the legislature—namely, white representatives elected from districts with comparatively trivial numbers of blacks—represent the interests of white citizens, and the interests of blacks are represented only by the handful of black representatives who are elected from majority-minority districts. The end result is that, to the extent that they have needs and policy desires that differ from those of white voters, black voters are denied meaningful, effective representation. The isolation of the black

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

voter is worsened still by the fact that majority-minority districts, by virtue of the politics of racial militancy, inevitably elect candidates who are so liberal as to be out of the mainstream in the elected body.

As a consequence, in their zeal to ensure the election of a handful of liberal black officials in any given jurisdiction, the traditional black leadership unwittingly transformed the Voting Rights Act into an electoral boon for Republicans in the South. Although the leadership got what it wanted (a few friendly black faces in Congress), it is now clear that it also got far more than it bargained for—Speaker of the House Newt Gingrich *and* Senate Majority Leader Bob Dole. To the extent the black leadership is dissatisfied with the current Congress, the leadership has only itself to blame.

ANOTHER of Thomas's opinions, in *Missouri v. Jenkins* (1995), has been criticized by Higginbotham and others on the grounds that it would turn the clock back to the days before *Brown v. Board of Education* (1954). His opponents are correct to note that Thomas has criticized that landmark decision overturning school segregation, but they have ignored the fact that Thomas's criticism makes him a stauncher opponent of segregation than they. Thomas criticized the *Brown* Court not for what it did but for what it failed to do. The Court justified its rejection of *Plessy v. Ferguson*'s (1896) "separate but equal" doctrine by citing faulty sociological studies that purported to show that legally sanctioned segregation "generates a feeling of inferiority" among blacks. As a result of this misguided focus on the emotional impact of segregation, the Court did not go far enough in protecting blacks (and others) against state-sponsored discrimination.

The case was, in Thomas's view, "a missed opportunity" because the Court did not unequivocally declare the Constitution color blind. As he explained in *Jenkins*:

> *Brown I* itself did not need to rely upon any psychological or social-science research in order to announce the *simple, yet fundamental truth that the Government cannot discriminate among its citizens on the basis of race*.... At the heart of this interpretation of the Equal Protection Clause lies the principle that the Government must treat citizens as individuals, and not as members of racial, ethnic or religious groups.

In short, Thomas criticized the *Brown* Court for not being emphatic enough about the evils and constitutional infirmities of "Jim Crow" and segregation. Indeed, Thomas's view is precisely the position then-attorney Thurgood Marshall presented

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in his winning brief in the *Brown* case.

Finally, Thomas's opinion in the 1992 case *Dawson v. Delaware* illustrates the depth of his opposition to racism. In *Dawson*, the petitioner, a death-row inmate nicknamed "one of Satan's disciples," whose prison cell (and body) was adorned with swastikas, argued that he should be spared the death penalty (he had brutally murdered a woman) because he was of "good character" and had been a good prisoner. The state of Delaware attempted to rebut both claims by pointing to the undisputed fact that he was a member of the "Aryan Brotherhood," a racist prison gang that advocates violent retribution against minority inmates. The state courts upheld his resulting death sentence, but the Supreme Court vacated the sentence. The Supreme Court ruled not only that his membership in a white racist gang was "totally without relevance" to the character issue but that the First Amendment precluded the state from even telling the sentencing jury about Dawson's membership in the racist group.

Thomas, alone, dissented. He argued that Dawson's membership in a white supremacist prison gang, especially one that is as "vicious" and as "hostile to black inmates" as the Aryan Brotherhood, was, in fact, relevant at the sentencing phase. To him, just as membership in a church choir or the Boy Scouts can show good character and conduct, membership in a racist prison group that preaches race hatred can show that an inmate "has not been a 'well-behaved and well-adjusted prisoner'" and can "rebut [the inmate's] evidence of good character." Such evidentiary uses of constitutionally protected associations, Thomas argued, did not violate the First Amendment because "the Constitution permits courts and juries to consider character evidence in sentencing proceedings." Thomas's strong condemnation of white supremacy, which he reiterated last Term in *Capitol Square Review Board v. Pinette* (1995), a case involving the Ku Klux Klan, refutes the suggestion that he is blind to the problem of racism in America.

The long and short of it is this: Thomas's views are squarely within the mainstream of the black community. Unlike some of his critics, Thomas has remained true both to the Constitution and to the traditional civil-rights objective that the government must treat all of its citizens as individuals, without regard to their race. He has neither turned the clock back on black progress nor turned his back on the black community. Regrettably, the same cannot be said for Leon Higginbotham and most other traditional leaders of the black community.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The benefits of marriage

STEVEN FLANDERS

IN a sane or sensible society, marriage is more an answer than a question. Of course, it is never the only answer: In any culture, a noticeable minority never marry, some because they resist for their own reasons what their culture and their families urge upon them and others for want of the right opportunity. But I venture to say that for most of humanity, past and present, the only real question here is when, or to whom. Whether to marry has been little more a question than whether to be born or whether to die.

The *New York Times* last spring printed a striking dispatch from a demographers' conference in San Francisco that carried to a new level of desperation the quest for an answer to a question that should not be asked. If the quoted researchers are to be taken seriously ("Studies Find Big Benefits in Marriage," April 10, 1995), we can all look forward to the gradual dissolution of the family and, perhaps, of civilization as well. These social scientists, it would seem, have abandoned the social or cultural claims of marriage as the usual accompaniment of maturation, perhaps even the definition of the ascent out of adolescence. Instead, they try, through empirical efforts that (as reported) were both misguided and incompetent, to persuade us that marriage is good for us, like diet or exercise. They claim that marriage is in our individual interests simply on instrumental grounds.

Without a doubt, the marriage institution is in our collective interests. As a matter of individual choice, however, its practical claim upon our fellow citizens and ourselves becomes weaker each year. Sad to say, the quoted researchers faithfully reflect an atomized culture in which one's own interest is about all the basis available to justify any of life's choices, large or small. Among the other forces that have undermined marriage, I would emphasize the pervasive assault on sex roles in late twentieth-century America. If young women and men

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

cannot see themselves naturally embracing the familiar roles of wife, mother, husband, father, then marriage becomes a kind of consumer choice, to be weighed against other claims upon one's money and time.

If that's what marriage is up against, we're all doomed. Or, more precisely, our heirs are, and theirs; for it will take a couple of generations before marriage's cultural props erode, at which time it will become clear that marriage is a loser—in purely instrumental terms. When this happens, we will have fulfilled the prediction made by the young Daniel Patrick Moynihan a generation ago, the prediction Charles Murray reminds us of today: A community that allows a large number of young men to grow up without fathers asks for and gets chaos. But Moynihan—then—was making a grim prediction that he hoped to forestall, of a minority of a minority community.

I WOULD be the very last to dispute that marriage has its joys and its benefits. Unfortunately, they are mostly available outside marriage as well, at least in the short term and before the onset of old age. Marriage is disabling in lots of obvious ways: professional, sexual, economic. The married must consult, share, and be faithful, or at least offer some pretense of these. Yet, even the pretense must be a nuisance, and the reality is positively confining, in the sense that it restricts choices and opportunities.

If marriage is a misfortune in the realm of consumer choice, then children are a disaster. If we were to regard children as fabulously expensive pets, there would be no buyers. The price tag for each child might be placed at roughly one-quarter of a million dollars. A rule of thumb might be that middle-class families ultimately spend on each child about what they spend on their house.

Why do we marry? Why do we procreate? Out of self-interest? To make ourselves healthy? Hardly. We do these things out of love, and because they are our connection with future generations, with past generations, and perhaps with the infinite. But all of this is jeopardized as our culture of narcissism increasingly denies the validity of inherited marriage roles, deeming them coercive or, at least, confining. Living and making a life with the opposite sex has its charms, of course, but, truth be told, easier, cheaper, less-demanding, and less-confining alternative lifestyles abound.

Over the past 30 years, we have detached sex and procre-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ation from the institution of marriage. Large numbers of American children are now born out of wedlock; in many communities, the number is more than half.

Well-meaning meddlers in legislatures and the courts may soon detach child rearing from marriage as well. The New York Court of Appeals last November issued a four-to-three decision that authorized in two cases adoption by a natural mother's unmarried partner. In one of the cases, it was a heterosexual partner who wished to adopt his partner's infant; in the other, a lesbian partner who wished to do the same. The majority, focusing on the statutory standard of "the best interests of the child," concluded: "To rule otherwise would mean that the thousands of New York children actually being raised in homes headed by two unmarried persons could have only one legal parent, not the two who want them." Hailing this "momentous" decision by Chief Judge Judith Kaye, the *New York Times* editorialized: "It will bolster the legal standing of the state's non-traditional families."

True enough. But, if child rearing works without marriage, why bother with the wedding ceremony at all? Indeed, those who might be inclined, even unconsciously, to duck the obligations of the marriage contract can now claim that cohabitation-plus-adoption is essentially the same as marriage. The equivocator's dream, this decision offers the wandering male a complete justification for his lifestyle choice. And, for the wandering female who finds pleasure and comfort in intimacy with other women, as well as with men, this decision may tip the scales for them too: Men and marriage are unnecessary.

Notably, neither side in this case articulated the important fact that "adoption" in these contexts is quite different from the traditional adoptions that legislatures presumably had in mind when fashioning the adoption statutes now in place in New York and other states. The majority sensibly relies on the fact that "the pattern of amendments since the end of World War II evidences a successive expansion of the categories of persons entitled to adopt regardless of their marital status or sexual orientation." This pattern presumably responds to an effort to maximize, or at least to increase, the number of eligible homes, so that infants who otherwise have inadequate or no care may be adopted. But adoption by the live-in partner of an unmarried mother has a different purpose altogether: to establish legal entitlements and obligations that mimic those of marriage. It is an effort that is profoundly subversive of the institution of marriage. A decision that doubtless im-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

proved the legal position, and perhaps the prospects, of the children directly before the court may contribute to an accelerating enfeeblement of marriage.

Also notable, the majority opinion commits a casual, yet significant, logical error that it shares with many who legislate on behalf of "non-traditional families." Judge Kaye seems to imagine that the cases before her are broadly representative of unmarried couples with children. But there is no evidence for this. It may be true, though certainly regrettable, that "at least 1.2 of the 3.5 million American households which consist of an unmarried adult couple have children under 15 years old, a more than six-fold increase since 1970." This hardly means that very many of those "headed by two unmarried persons" include "two who want (the children)." The vast majority of these households are arrangements of convenience, including, hopefully, one partner (nearly always the mother) who wants the children and another who is indifferent—on the good days.

IF we must treat marriage within the calculus of interest, the best answer is that it is the State that benefits from marriage. This is a jarring notion. Our Anglo-American legal tradition and political culture generally do not treat the State—I capitalize this word to capture its German quality—as a distinguishable interest, conceptually distinct from the interests of the citizenry.

But it can hardly be doubted that the State has an interest in sustaining and encouraging a citizenry who are law-abiding and self-sufficient, who avoid self-destructive behavior, who vote intelligently and otherwise participate in communal governance. Citizens who break the law or evade it impose significant costs on the State that must catch, prosecute, and imprison the criminals. Those who receive welfare and other direct public-assistance benefits, inadequate though all of these may be, are also costly to the State. While no one would claim that the "benefits" to the State of a law-abiding citizenry follow directly from child rearing as practiced within all marriages, there is no shortage of evidence that a stable marriage, in general, is the best place to raise children.

I would only be persuaded otherwise if I were shown a citizenry roughly comparable to our own which had indeed abandoned the claims and obligations of marriage, and seemed to be nonetheless bumping along satisfactorily. Let us imagine that by the year 2050 the Swedes, say, had largely eliminated

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

marriage. (They seem already to be well along in this.) Let us suppose further that they brought up nearly all of their children without spectacular ill effects in some combination of communal settings, casual couplings, and long-term homosexual and heterosexual pairings. Then perhaps someone could fairly propose that the interest I identify is illusory.

But nothing short of this would do, so I consider my hypothesis safe, at least for my own lifetime. The safe course is for the trustees of the interests of the State to resist efforts that would entitle "life partners" of the unmarried to the same benefits (health insurance and life insurance, in addition to more central rights like adoption) as the married. It long has been, and should still be, a major role of the State to support and preserve the family.

IF it is easy to articulate a State interest in the institution of marriage, it is almost as easy to identify a similar interest of society. Indeed, not only do we all share an interest in the institution of marriage, we share an interest in the success of other people's marriages. Clearly, we share the State's interest in the law-abiding and self-sufficient qualities of our fellow citizens. For the most part, however, the benefits of marriages to society are less measurable than are those to the State.

A good place to begin is with public places. Most of us are acutely aware of a palpable decline in public civility, which keeps the young, the old, the defenseless, and many of the rest of us from enjoying our parks and other public spaces. This is a development that would have been unimaginable a generation ago and utterly incomprehensible to anyone peering forward two generations ago. Not all of this can be traced to changes in family life or family organization. However, to demonstrate a shared stake of our fellow citizens in the integrity of the marriage bond, an assertion of universal or exclusive causality is not necessary. I need only claim what seems undeniable: a connection at least in part between antisocial behavior that destroys public spaces and facilities, making them forbidding and uninviting, and the less steady and effective child-rearing settings and practices that the progressive collapse of marriage has encouraged.

Some other costs to society are measurable enough. Expenditures for security gear, for moves to flee crime, for failed investments brought about by middle-class flight—these are the costs of social breakdown which might well have been averted had the marriage institution better survived.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Modern-day heirs of Tocqueville are concerned about the decline in those mediating civil institutions that seemed, to their mentor, to be the glory of our uniquely autonomous civic culture. They should be especially concerned about marriage, which may be the bedrock private civil institution. It is not too difficult to imagine that without it, a century or so hence, "bowling alone" will be the least of our problems.

LET no one assume that the institution of marriage can take care of itself. Marriage seems to have lost entirely the cultural moorings that once brought young people together with a kind of inevitability. Why did they bother? They married not only for sex and for procreation but for more transcendent reasons. To avoid it or to miss it would be to step outside the familiar, the natural, the appropriate.

I have no solutions, only palliatives. I would begin with the old idea that marriage is a *moral* institution. Indeed, a long marriage, far from being something natural or inevitable or simply the spinning out of a series of actions in response to self-interest, is closer to the opposite: an unfolding of the life cycle that embodies not only joys and growth but especially obligations met, temptations resisted, and provocations accommodated or ignored. It may even embody a search for transcendence. Ordinary couples are entitled to approbation and perhaps more than that, not only on unique ceremonial occasions like fiftieth wedding anniversaries, but always. And no one should hesitate to express strong disapproval of the actions of those who abandon a marriage in a wanton fashion. We should also cherish what forms and ceremonies still remain. For nearly all ceremonies of any antiquity, and most without, serve as markers for the life cycle, generally in intimate relation to marriage and the married.

Marriage, recognized as fragile and endangered, should be an explicit frame of reference for the actions of legislatures and other public bodies. Because marriage benefits the State, as well as civil society, no legislator should hesitate to offer benefits in return. I will not try to define how far the State interest in marriage should be embodied in legislation. But I would discourage the State and private institutions from providing the unmarried with the same benefits as the married. And, of course, I would resist efforts to sanctify in law either homosexual or other "non-traditional" marriages, or the novel forms of adoption discussed earlier. I would also support proposals to restrain divorce.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

I predict that marriage, if it remains a consumer commodity, will fail. The great exception will be immigrants and their children, unless they too over time learn the American way of marriage. Thus, in a perverse extension of our national tradition of renewal and revitalization through immigration, the fate of marriage in America depends upon our newest citizens. The rest of us may find ourselves with a great deal to learn from them.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Postmodern, posthuman, postreal

JAMES BOWMAN

IF you thought quotas were bad, just have a look at these quoters! Quotation-mark culture seems to have gone about as far as it can go when the editors of *Posthuman Bodies*,† on the introductory page of the introductory essay, refer to themselves as "us," in quotation marks! Their ironic excess suggests that, if the specter of unbridled sexual desire was the nameless dread which haunted the imagination of previous generations of critics, its counterpart today is belief. Not just religious belief, but belief in anything, up to and including one's own existence. Those who put in quotes even the pronoun referring to themselves would not wish to be understood as implying an unsophisticated, uncritical acceptance of their own existences. Such an acceptance, if generalized, would threaten the whole critical enterprise by implying that some entities cannot be deconstructed.

It is therefore as a kind of extended series of quotation marks that such a book must be read (insofar as it can be read at all), since it is essentially a patching together of artifacts from the culture upon which it is parasitic. Thus, it is part of the purpose of Steven Shaviro's essay, "Two Lessons from Burroughs," to insist on the moral equivalence—indeed, the indistinguishability—of parasite and host. He quotes William Burroughs' piquant question: "Which came first, the intestine or the tapeworm?" Of course, one way you can tell is that it is always the tapeworm who asks questions like that—in order to suggest, as Shaviro does, "that parasitism—corruption, plagiarism, surplus appropriation—is in fact conterminous with life itself" and morally undifferentiated from it.

By the way, you had better not assume that "conterminous" is a misprint. This book is shot through with strained or feeble puns and neologisms based on adding or subtracting a letter or

† Indiana University Press. 276 pp. $35.00.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

two from familiar words for more or less obscure reasons. It is part of the style of the quotation-mark culture. So are the frequent citations from rock n' roll music or popular films or comic books or science fiction or advertising slogans which are mixed up with knowing references to the usual gurus of the Academic Left in a parade of learning for its own sake. "Language is one of these mechanisms of reproduction," writes Shaviro, comparing it to DNA. "Its purpose is not to indicate or communicate any particular content, but merely to perpetuate and replicate itself." The parasite's superiority to the host is established by his being far more clever, far more knowing than any of those he quotes.

SO it is that Shaviro explains to us in his airy way the mistakes of Nietzsche, Heidegger, Saussure, Chomsky, even Lacan (though Foucault is, like Shaviro, pretty much infallible) while citing as authorities various comic books and science fiction authors—as well, of course, as Burroughs and his cinematic interpreter, David Cronenberg. Cronenberg also figures prominently in Kelly Hurley's rather interesting essay, "Reading Like an Alien: Posthuman Identity in Ridley Scott's Alien and David Cronenberg's Rabid." This is better written than but typical of the others in deriving from popular culture a kind of sanction for the feminist and homosexualist political agenda.

Why it should strike anyone as being of any particular interest or significance that David Cronenberg and Kelly Hurley are, if you apply a certain amount of interpretative ingenuity to the works of the former, more or less of a mind with regard to sexual and gender issues I don't know. But all these authors seem to share the assumption that, if they read a comic book that can be construed as illustrating their political views, the fact is somehow supportive of those views. Or rather, perhaps, the views need no support but only illustration. All the critical exegeses in this volume exist inside a closed system where high culture, popular culture, and "progressive" politics all mutually reinforce one another. That they do so is the only way you have to tell that you have done your deconstructive and exegetical exercises correctly.

The political agenda as such remains somewhat vague, at least as to what will happen after the final solution of the "human" problem. Paula Rabinowitz (in "Soft Fictions and Intimate Documents: Can Feminism Be Posthuman?") asks: "Does the term human have any meaning for women?" Turns

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

out that it does: it means a tool of oppression and social control. "I am not arguing for making women human," she writes. "Who needs it? Rather I want to suggest that women's stories circulate apart from human knowledge." For the posthumans, "human" is by its very nature a signifier of oppression; it makes a claim upon women which threatens to supersede their separate, power-giving femaleness, and to subordinate them again to non-woman.

RABINOWITZ'S essay illustrates the extent to which these authors enjoy the luxury of a self-created intellectual territory which shares no common boundary with reality. The result is the kind of manic but pathetic absurdities which we might expect to find in the conspiracy theories of a certifiable paranoid schizophrenic. It is perhaps no accident, as the Marxists say, that the most straightforward and readable of the essays in this volume is Allucquere Rosanne Stone's "Identity in Oshkosh" which amounts to a plea for the "decriminalisation" of Multiple Personality Disorder. But the most engagingly loopy of them all is Alexandra Chasin's "Class and Its Close Relations: Identities among Women, Servants, and Machines" which tells of how an encounter with an Automated Teller Machine alerted the author to the myriad of Marxist revolutions that were taking place under her very nose.

Just as Steven Shaviro labors to erase the distinction between parasite and host, so Chasin debunks the notion "that there is a clear and stable ontological difference between" us and the tools or servants which we fondly imagine "make our lives easier"—including ATMs. Hers flashed her the message that "it was a pleasure serving you," and she was shocked. But then "I noticed that the machine's claim to take pleasure in serving me, placed it in a certain class position, if not in a certain gender position as well. To appear to take pleasure in serving [sic], has been, traditionally, an ideal for women, just as it has been for workers, especially servants, and often for slaves."

For Chasin even the distinction between subject and object is a cultural construction and one which "has historically empowered the individuals and groups and kinds that inhabit the position of the subject." She concludes that

> more than the design of tools, the designation of absolute difference between us and them has served as a claim to entitlement, to categorical superiority, to exclusive rights to selfhood, and to

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

> selfish social and technical arrangements. Working beings have often thrown into crisis the schematic opposition between subjects and objects, just as they have objected, dramatically to the unequal arrangements that depend on it. Here we go again.

Working beings of the world unite! How long ago and simple now seem those days when we first realized that the relationships between employer and employee or, later, man and wife were politically fraught; now we realize that we oppress even our knives and forks!

SUCH numinous nescience, you might think, would arouse the chief opposition to itself on the political left. What way more certain to discredit the whole Marxist enterprise, with its latter-day survivors among various sorts of "liberation" movements than such a mindless trivialization of the language of class and power? Yet the Left is for the most part paralyzed and rendered impotent by its own political irrelevance. Once you have lost any hope of exercising power in the real world, you might as well spend your time analyzing the power relationships between people and their ATMs. At least some brain-dead university department somewhere will allow you to make a decent living at it.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Decade of greed?

JAY P. LEFKOWITZ

IN *Payback: The Conspiracy to Destroy Michael Milken and his Financial Revolution*,† Daniel Fischel sets out to refute one of the most popular myths of the Reagan era: that Milken, the media's poster boy for the "decade of greed," was a crook who used "junk bonds" to help unscrupulous financiers plunder corporate America and bankrupt the savings and loan industry. According to Fischel, Milken was victimized by three groups with complementary agendas: politically ambitious government prosecutors, old-line establishment bankers, and congressional regulators of the banking industry. And all of their efforts were supported by the popular press, which seemed to take the position that anyone who made as much money as Milken (more than $500 million in 1987) had to be dishonest. Written with the persuasiveness of a legal brief, *Payback* is a powerful indictment of the U.S. government for meddling with the marketplace and scapegoating Milken for its own failure to save the savings and loan industry.

Few authors have either the credentials or experience of Fischel to write such a revisionist history. In addition to serving on the law and business faculties of the University of Chicago, Fischel has long been affiliated with an economic consulting firm, Lexecon, Inc., that has been associated with numerous players in the financial and legal battles of the 1980s. He has served as a consultant or advisor to the Department of Justice, the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Securities and Exchange Commission, and the Office of Thrift Supervision. And his former clients include Charles Keating, David Paul, and Milken, all of whom served jail time after government prosecutions.

Payback begins with an examination of what Fischel calls the "criminalization of regulatory offenses" and "technical vio-

† Harper Collins. 332 pp. $25.00.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

lations" in the financial industry during the late 1980s. Fischel explains how the U.S. government, led by former U.S. Attorney Rudolph Giuliani, now mayor of New York City, garnered numerous indictments, guilty pleas, and convictions of Wall Street professionals, even though in many instances the prosecutors had to bend the law and were unable to define with any particularity what "crimes" these individuals had committed, much less identify any victims.

Giuliani is, in fact, one of the chief villains in *Payback*, and Fischel believes that he was largely motivated by a desire to use the power of the prosecutor's office to launch a political career, just as Thomas Dewey had done before him. Indeed, Giuliani received public acclaim for securing guilty pleas from Dennis Levine and Ivan Boesky; but he became a political superstar only when he began investigating Milken.

MILKEN and his upstart investment bank Drexel, Burnham, Lambert were simply too aggressive and too successful to have any friends on Wall Street. In 1975, two years after Milken joined Drexel, the firm earned a grand total of $1.2 million in corporate-finance fees. Eleven years later, Drexel had revenues of over $4 billion and earnings of $545.5 million—far and away the most profitable firm on Wall Street.

The key to Drexel's success was Milken's ability to raise enormous sums of money very quickly and make them available to entrepreneurs interested in buying and selling companies. Milken was in touch with a network of entrepreneurs who scoured the country looking for undervalued companies. Once a company was targeted, Milken would arrange the financing for the purchase of the company by selling high yield bonds, backed either by one of Drexel's clients or by the target company itself. Once the takeover occurred, the new management would begin to sell the company's underproductive assets and, if necessary, use the excess proceeds to retire the debt that was required to finance the transaction. In this way, Milken created vast profits for his network of clients, a fortune for Drexel and himself, and, of course, great wealth for the shareholders in these companies.

One result of Milken's efforts, however, was the displacement of numerous executives at the staid Fortune 500 companies that were "restructured" by Milken's clients. Likewise, the old-line investment bankers, "who avoided involvement with hostile takeovers and leveraged buyouts for fear of offending [their] blue chip corporate clients ... were left on the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

sidelines." Those bankers became some of the harshest critics of the restructuring revolution. Moreover, hostile takeovers and "merger mania" were easy targets for the media, largely because corporate restructurings—even when they are absolutely essential to corporate productivity and growth—always caused some initial dislocation of workers who can be portrayed as sympathetic "victims" of wealthy and aggressive "raiders."

With public opinion against him, and Giuliani and the government hot on his heals, Milken eventually plead guilty in 1990 to six "technical violations" of the securities laws instead of facing trial, and he was sentenced by federal Judge Kimba Wood to 10 years in prison (though he was released in 1993). But the indignities suffered by Milken went far beyond Wood's courtroom or the California correctional facility where he served his jail sentence. The harshness of the government's prosecution of Milken, in which Milken was described in court documents as being "not unlike the Kingpins of other sophisticated criminal enterprises," combined with the brutal treatment he received from the media ("Barron's compar[ed] Drexel's fall with the defeat of Nazi Germany"), left Milken vulnerable. And in due course, the government, supported by the popular press, decided to pin Milken with the blame for the savings and loan debacle. It is this story that Fischel tells in the second half of *Payback*.

DURING the 1980s, more than 1,000 savings and loans became insolvent, at an estimated cost to taxpayers of between $150 and $250 billion. This financial debacle fueled a search for villains and scapegoats, and no one was an easier mark than Michael Milken. After all, it was widely accepted that savings and loan institutions (also known as thrifts) were heavily invested in Milken's high yield bonds, pejoratively referred to as "junk bonds." And if one accepted the press accounts as gospel, then it was also common knowledge that these "junk bonds" had a high default rate.

Fischel forces us to examine the facts. For example, while thrifts' investments in high yield bonds grew from $5 billion to $13 billion between 1985 and 1988, "high yield bonds constituted 1 percent or less of thrift assets from the time thrifts began actively investing in 1985 through the end of the decade." Indeed, "only about 450 of the approximately 4,000 savings and loans in existence in 1980 ever held any high yield bonds." As for their default rate, here too Fischel uses hard

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

data to set the record straight. Throughout most of the 1980s, high yield bonds were solid investments that rarely defaulted but still provided returns that were greater than those of high grade bonds. In fact, during the worst year for high yield bonds, 1990, even as Drexel was declaring its own bankruptcy, "90 percent of the [high yield] market did not default." Moreover, Drexel was far from the only bank that underwrote high yield bonds, and its bonds, on the whole, had a lower default rate than its competitors, including Lehman Brothers, Salomon Brothers, and First Boston.

What then went wrong? According to Fischel, long before the explosion of high yield financing, the savings and loan industry "was a time bomb waiting to explode." First, thrifts were subject to Regulation Q, which limited the amount of interest they could pay to depositors to 5.5 percent, and which therefore made them vulnerable to interest-rate fluctuations. Second, thrifts faced additional interest-rate risk because of the maturity mismatch between their withdrawable-on-demand assets and their long-term home mortgage liabilities. Third, thrifts were undiversified and, therefore, susceptible to the vagaries of local real-estate markets. Finally, as Fischel points out, thrifts were extremely leveraged, with razor thin safety margins. Indeed, the skyrocketing inflation in the late 1970s and early 1980s, which left thrifts unable to compete for depositors with the commercial banks that were offering market rates, almost destroyed the thrift industry.

IN an attempt to rescue the industry, Congress passed two important pieces of legislation—the Depository Institutions Deregulation and Monetary Control Act of 1980, and the Garn-St. Germain Depository Institutions Act of 1982. These new laws allowed thrifts to pay the market rate of interest on deposits, and also authorized thrifts to make a wide array of investments in addition to home mortgages, including the purchasing of high yield bonds. At the same time, however, Congress increased the level of deposit insurance from $40,000 to $100,000, and reduced the net-worth requirements thrifts had to maintain from 5 percent to 3 percent and, in certain instances, even lower.

But, as pointed out by Fischel, "the combined effect of these legislative and regulatory initiatives was to eliminate whatever market discipline existed in the thrift industry." Weak or nearly insolvent thrifts were able to remain in existence because of the lowered capital requirements, while the greater

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

amount of deposit insurance "made the underlying health of the savings and loan irrelevant." Thrifts, especially those at or near insolvency, had an incentive to raise large amounts of money and to take big risks, because their owners had the least to lose. In Fischel's analysis, therefore, a far more important factor in the failure of the savings and loans than interest-rate fluctuations or real-estate valuations was the utter lack of market discipline engendered by the government's regulation of the industry. These policies gave rise to "a new breed of thrift owners who saw the value of financing their existing or planned business ventures with government-insured thrift deposits" and, ultimately, caused many of the thrifts to default.

One particularly misguided regulation was the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), which, among other things, required thrifts to sell all of their high yield bonds. By effectively pulling the rug out from under 9 percent of the high yield bond market, the government especially hurt those thrifts that owned high yield bonds. It is "sheer hypocrisy," Fischel writes, for the government to have blamed Milken and his high yield bonds for causing the savings and loan failure when the government first changed the rules to encourage thrifts to purchase high yield bonds and then later helped to destroy their value by forcing thrifts to dump the bonds.

AT its core, *Payback* is an important cautionary tale about what happens when government interferes with the dynamic of the marketplace at the behest of special interests. In the 1980s, Michael Milken launched a financial revolution that helped to create enormous wealth for this country, along with thousands of new companies and millions of new jobs. According to Fischel, Milken should have been viewed "as the ultimate personification of the American dream." Instead, because the government "formed an alliance with the losers in the financial revolution to attack the winners," and the media abdicated its role as "the watchdogs for the public," Milken is today a convicted felon and the received wisdom is that the 1980s was "a decade of greed."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Chatterbox

JASON W. A. BERTSCH

DIFFERENCES between the early and late American presidency are easy enough to recognize. The twentieth-century executive branch is larger than its nineteenth-century counterpart, more apt to introduce and supervise legislative programs like the Great Society, and less shy about invoking veto powers. Similarly, twentieth-century presidents more often rely upon "unilateral" powers such as the withholding of documents from Congress under the auspices of "executive privilege" or the initiation of executive agreements instead of Senate-approved treaties. These developments, which are the preoccupation of a great many presidential scholars, are undeniable. But what we often forget is a much simpler, much more important, fact: The single greatest difference between early and contemporary American presidencies is the expansion of the role of rhetoric.

Over the course of 29 years in office, the greatest of American presidents—Washington, Adams, Jefferson, Madison, and Lincoln—collectively gave 112 public speeches. Lincoln, more famous for his brilliant addresses than for his frequent refusals to speak to assembled audiences, often took vows of silence on important political questions. Two months before shots rang out at Fort Sumter in 1861, Lincoln traveled through Pittsburgh and refrained from discussing the possibility of civil war. His explanation: It "would require more time than I can at present command, and would perhaps, unnecessarily commit me upon matters which have not yet fully developed themselves." The crowd hollered "that's right" and cheered wildly, not jeered as we might today.

By contrast, in 1993 alone, President Clinton spoke publicly 600 times; he has taken his show from elementary schools, to college basketball games, to music television stations. Although unprecedented in degree, such presidential loquaciousness has become commonplace. President Nixon not only loved but con-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

sidered it his duty to speak to public audiences. He employed 12 speechwriters and eight researchers and, in lieu of the now taken-for-granted daily addresses, created an Office of Public Liaison, which was responsible for disseminating a White House "line of the day." Gerald Ford spoke publicly every six hours in 1976, setting a short-lived record that would be broken by Carter, Reagan, and then Clinton.

RECENT scholarship on the subject of presidential elocution, sparse as it is, has tended to be unfriendly toward the emergence of the bully-pulpitized presidency. Washington University professor Wayne Fields, however, moves to reverse the negative tide in his new book *Union of Words: A History of Presidential Eloquence*.† Having read piles of speeches, secondary scholarship, and even political theory, Fields tries to explain why presidents' oratory is actually worth celebrating. He thinks that rhetoric has served the purpose for which he says it was originally intended: to help unite diverse groups of Americans.

The book's thesis is that presidents' "work, and the obligation of their eloquence, is to hold an ever enlarging 'us' together even as we lament the difference between what we want and what we have." This is not as trendy or maudlin as it sounds. The idea that presidents should be rhetorical "leaders of the people" dates back at least to Woodrow Wilson, who argued in a book called *Constitutional Government in the United States* that the president should transform himself into "spokesman for the real sentiment and purpose of the country" by "compelling through public opinion." Treating the office as anything other than a soap box, as Reagan did when he canceled the 1986 State of the Union following the space-shuttle crash, today often triggers ridicule and condemnation. This suggests how ingrained into the contemporary American mind is the assumption that presidents should be public orators. Although Fields never goes so far in his book as to say that presidents should be derided for not speaking, he agrees with Woodrow Wilson that rhetoric is the "wellspring" of presidential leadership, that public eloquence is his most valuable and "pragmatic instrument."

Whereas Teddy Roosevelt liked to recall the homely adage to speak softly and carry a big stick, Wilson believed that popular rhetoric was the big stick. For Wilson, and also for

† The Free Press. 406 pp. $25.00.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Fields, carrying the big stick demands not speaking softly but clearly, frequently, and, most important of all, publicly. Fixing the problems of American government, Wilson and Fields conclude, requires that the president appeal directly to the people. With public support, which a president secures through his rhetoric, the executive branch might circumvent, or go over the heads of, Congress, thus freeing it from the constraints of the separation of powers, of legislative checks and balances.

And if early American presidents did not speak as much as Wilson would have liked, it's not, Fields argues, because they objected to the practice. Throughout *Union of Words*, Fields tries to reconcile, even assimilate, Wilson and his predecessors. He would have the reader believe that Wilson trumpeted an old idea that came from Washington, Madison, Jefferson, and Lincoln. He thinks, in other words, that twentieth-century presidents, including Woodrow Wilson, followed the advice of their forefathers who told them to go unto the people and speak.

BUT on this point Fields is wrong. Nineteenth-century presidents and political thinkers held a fundamentally different view of the role of presidential public speaking. Even if it *were* in the name of "uniting diverse groups of Americans," or any other cause, Wilson's predecessors believed that rhetoric should play a minor role in the presidency. To be sure, most pre-1900 presidents, as well as the constitutional framers who never became president, thought that uniting diverse groups of Americans was a desirable goal. But they certainly did not think that rhetoric—telling people what and whom they should like and support—was the proper or best way to accomplish that goal. It is for this very reason that Thomas Jefferson, and every president after him, delivered the now-famous State of the Union address not from a rostrum but on a piece of paper which he sent to Congress—that is, until Woodrow Wilson.

The only president before 1900 who actually tried using popular rhetoric in the way that Wilson later advised was Andrew Johnson. He was impeached by the House of Representatives for "bad and improper rhetoric," for being "unmindful of the high duties of his office," and for delivering "with a loud voice certain intemperate, inflammatory, and scandalous harangues." But the presidents who preceded and immediately followed Johnson held their tongues not just because excessive popular rhetoric was considered improper but because they themselves believed that an infusion of too much rhetoric into the presidency was undesirable.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Thus the better argument is that we have witnessed during the twentieth century not the maturation or the logical development of an old idea but the very opposite: a fundamental violation, or poisoning, of principle. That principle, that the president should practice rhetorical self-restraint, makes especially good sense today.

THERE are at least three reasons why the transformation of the American presidency into a rhetorical presidency warrants attention. First, because public speakers usually promise more than they can deliver, is the problem of inflated rhetoric and bloated popular expectations. If it is true that we have very high—indeed unrealistic—expectations of government, which distract us from the actual progress the nation has achieved, and the real problems it faces, then it is unclear how increasing amounts of overwrought speechmaking will be useful.

Which brings us to the second issue and the most classic popular vice, demagoguery. In a word, the expansion of presidential rhetorical leadership threatens to render demagoguery more palatable, and thus more likely. The more value we place on public speaking, the greater the chances are that the ship of state will be navigated not by moderate men inclined to reflect and deliberate on the public interest but by clever speakers. Charismatic "leaders of men," which literally means "demagogue" in ancient Greek, are as likely to be, and perhaps more often are, harbingers and provocateurs of problems as solutions to them.

A third reason why we might balk at Fields's optimistic celebration of presidential rhetoric is that too much of it threatens to undermine, perhaps imperceptibly, the very power of the presidency. For it is difficult to pay attention to, or take seriously, someone who never quits talking. Bill Clinton and Newt Gingrich are both perfect examples. Carol Gelderman, a professor at New Orleans University, has put it nicely: "Just as putting too much money in circulation causes inflation and diminishes the value of a currency, too much presidential talk cheapens the value of presidential rhetoric."

So it would be wrong to brand all presidential speeches, or every rhetorical presidential strategy, as unequivocally bad. Presidential rhetoric is, and always has been, a vital part of American politics. Lincoln's Gettysburg and Second Inaugural Addresses mark two of the most beautiful, most important, political acts in American history. In this century, we should

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

indeed be thankful for Franklin Roosevelt's rhetorical effort during America's mobilization for World War II.

Even President Clinton, who in many ways epitomizes what's wrong with the contemporary American presidency, has had his rhetorical moments. In November of 1993 in Memphis, the President spoke briefly in the words of Martin Luther King, Jr.:

> I did not live and die to see the American family destroyed. I did not live and die to see 13-year-old boys get automatic weapons and gun down nine-year-olds just for the kick of it. I did not live and die to see young people destroy their own lives with drugs and then build fortunes destroying the lives of others. That is not what I came here to do. I fought for freedom, he would say, but not for the freedom of children to have children and the fathers to walk away from them.

It is unfortunate that this speech, perhaps Clinton's best, sits alongside hundreds of others, more or less forgotten. But considering the amount of contemporary presidential rhetoric, the fact that we dismiss it is altogether understandable, not to say inevitable. This, it seems to me, is the best argument for spending less time on saluting rhetoric and more time on reining it in. It's an argument that Fields, and too many presidents, ignore.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The art of liberty

DANIEL J. MAHONEY

SOME 20 years ago, in an important article in the *American Scholar*, Robert Nisbet wrote about the "many Tocquevilles," sometimes contradictory and of varying cogency and staying power, who have become part of our intellectual landscape since the Tocqueville "revival" began in North America near the end of the Second World War. Today, the situation is exacerbated by the manifest appropriation of Tocqueville by the full range of intellectual and political partisans who currently dominate political discourse, from the communitarian left to the neoconservative right to the theorists of a reinvigorated "civil society." But, while the content of these many "Tocquevilles" varies widely, the approach to this great thinker is almost uniformly ideological. Tocqueville is turned to less as a serious source of wisdom about the nature and problems of modern democracy than as a respected authority who can provide support for conclusions or political programs that already have been arrived at independently of Tocqueville's larger or fuller reflection.

It is in contrast to the range of partial or partisan appropriations of Tocqueville that the virtues of Pierre Manent's book, *Tocqueville and the Nature of Democracy*,† become particularly clear. Manent is the most penetrating and measured of the new generation of French post-Marxist political theorists. He is, among other things, a former assistant to the great French anticommunist political thinker Raymond Aron (who initiated the French rediscovery of Tocqueville in the 1960s), an independent-minded scholar who has contributed to the revival of liberal (in the older and larger non-American sense) political thought in France, a former editor of the important "neoconservative" journal *Commentaire*, and a serious Catholic deeply influenced by the work of Leo Strauss. Moreover, it is

† Rowman & Littlefield. 148 pp. $18.95.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in no small part due to his efforts, as well as those of François Furet and Jean-Claude Lamberti, that Tocqueville's writings are now widely recognized in France as an indispensable guide for understanding modern history and society as well as a rich theoretical alternative to discredited Marxist-inspired critiques of liberalism.

While eschewing any traditionalist or reactionary rejection of liberalism, Manent nonetheless stands apart from the current crop of non-Marxist French political thinkers by his considered refusal to idolatrize "individual rights" as the spiritual lodestar of modern society. He is a conservative liberal (we might say a "neoconservative" with appropriate sensitivity to the distinctive French context) who appreciates the dependence of democratic societies on premodern moral capital and on qualities of human nature which are presupposed, but not sufficiently cultivated, by a liberal political order. Nor is Manent a typical adherent of the "social sciences," which, in their claim to scientific rigor, dominate the study of human affairs in the academy. In his latest work, *The City of Man* (to be published in translation by Princeton University Press in 1997), Manent explores the origins of the modern social sciences, which he argues are located in a fundamental, dogmatic, and unsustainable abstraction from the question of the nature of man.

This book was originally published in France in 1982 (and republished in 1993) in the midst of the French liberal revival that succeeded a long period of intellectual domination by neo-Marxist, existentialist, and postmodernist intellectual currents. Its delayed publication in this country is evidence of the intellectual conformism that characterizes much of the publishing world. Academic publishers, who fell over themselves trying to publish the most insignificant musings of Derrida, Althusser, Bourdieu, and their epigones simply ignored the most interesting current of contemporary French thought for a period of almost 20 years.

IN *Tocqueville and the Nature of Democracy*, Manent recognizes and highlights all of the themes that are of interest to contemporary "Tocquevillians": the importance of local liberties and political participation, the religious foundations of American mores, the associative art as a source of America's political greatness, and the danger of citizen apathy and the related phenomenon of dependence on an overgrown and meddlesome central government.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

But the originality of Manent's approach lies elsewhere. Manent makes the simple, but radical and illuminating, claim that Tocqueville, who wrote over 150 years ago, presents an analysis of democracy—a "phenomenology" of democracy—which is a marvelously clear and accurate account of the essential nature and features of modern democracy. In his view, Tocqueville's classic work, *Democracy in America*, is best approached not as a historical account of the origins of modern democracy (although it is in part that) nor as a catalogue of observations and reflections about the bustling, egalitarian, commercial democracy that was Jacksonian America (although it is in part that too). Rather, it is an effort to describe the radically new situation of modern man in a political order that is not simply a political order but a radically new social state that transforms every aspect of human life.

Manent begins with the "naive" presupposition that Tocqueville's elaboration of democracy can explain *us* to ourselves. By confronting Tocqueville's elaboration of democracy, democratic citizens can gain an appropriate distance from the omnipresence of democratic categories and hopes without abandoning their commitment to the preservation of the democratic order or their belief in its real and abiding justice. They are thus able to stand at a distance from what Manent calls the "democratic dogma," without ceasing to be measured friends of democratic liberty. In this spirit, Manent summarizes Tocqueville's teaching in a terse and evocative formulation: To love democracy well, it is necessary to love it moderately.

BUT what is this democracy whose nature Tocqueville unfolds and which Manent's book attempts to articulate for us? One must begin by clearing up one potential source of confusion in any discussion of modern democracy. For Tocqueville, democracy is not, as in the Greek or Aristotelian view of politics, a political regime in an eternally unchangeable cycle of political orders available to man as man. It is, rather, a new human and social dispensation, characterized by "equality of conditions" where the place and efficacy of socially rooted and politically authoritative "influences" and "contents of life"—what American political scientists call "social capital"—are displaced by an all-encompassing hypothesis of radical freedom and equality.

Three intertwined "generative principles" bring this about: a new egalitarian social state, the doctrine of the sovereignty of the people, and the dominance of public opinion in a demo-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

cratic order. In the end, these formulations, although initially vague and abstract, suggest the same, extremely concrete, explanation: Modern democracies are dominated by an *opinion* which affirms that the only legitimate form of obedience is obedience to oneself or obedience to oneself through a majority will that represents the individual in his undiminished sovereignty. Tocqueville brilliantly established that this dogma of "the sovereignty of the people," the "generative principle of the republic," is "the same which directs the majority of human actions."

When we understand that the principle of "the sovereignty of the people" is applied to every aspect of the social order then we can begin to appreciate fully the novelty and radicalness of the distinctively modern democratic order. Manent's analysis is subtle, refined, measured, and true to the nuances of the Tocquevillian elaboration of democracy. Manent shows that, for Tocqueville, the democratic understanding of man is based upon a profoundly true insight about the conventional sources of aristocratic authority and influences. Tocqueville proclaims the comparative "justice" and "naturalness" of the democratic idea and political order. But this is only part of the truth about democracy and man.

Here Manent restores greater depth and perspective to the current accounts of Tocqueville and corrects the standard view of him as a cautious and measured, but unabashed, partisan of liberalism and liberal democracy. Manent shows the paradoxical character of democracy and of Tocqueville's approach to it. Undoubtedly just, democracy profoundly threatens the cultivation of intellectual *eros*, the articulation and manifestation of the civic and manly virtues, and even the ability of individuals to act together or upon each other (that is, to *influence* each other within society). At its extreme limits, democracy creates an apolitical, apathetic individualism that risks dissolving the social and civic bonds into a "dis-society." Because the democratic dogma is based upon an abstractly true, but "purely formal" and "dizzyingly empty," abstraction, it threatens the nurturing and sustenance of those excellences that give *substance* to individual freedom and choice. Democracy, moreover, exalts in an exaggerated and potentially enervating manner the real, but limited, "virtue" of mildness or "humanity." In Manent's succinct formulation, "democracy embodies nature in a way that puts nature in danger."

In the closing chapters of *Democracy in America*, Tocqueville highlights the danger of a democratic, or tutelary, despotism,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

which arises when the nature of democracy is unchecked by a sovereign "art of liberty." Friedrich Hayek and other contemporary classical liberals have rightly highlighted Tocqueville's fear of an oppressive, managerial, bureaucratic state that formally represents the general will but saps free individuals of individual responsibility, economic initiative, and personal prudence. This is certainly one feature of Tocqueville's analysis of "democratic despotism," but it is only one aspect. Manent places it in its broader and proper perspective: Tocqueville understands democratic despotism to entail a despotism of mildness or softness itself. This "despotism" comprehensively undermines the associative, civic, and intellectual capacities of democratic man.

Democratic despotism is precisely *soft* despotism, marked, to be sure, by an egalitarian centralized state but made possible by the disarming of the soul by a dogma that recognizes only the legitimacy of the sovereign, rights-bearing individual and of the state that speaks for him. This dogma publicly delegitimizes those groups, bodies, activities, or authorities that are required to give content, direction, scope, and firmness to the individual and collective activities of men. It weakens the *public* character of mediating or intermediate structures.

However, despite his sometimes chilling diagnosis of the dangers of democratic despotism, Tocqueville is no partisan of hardness or cruelty à la Nietzsche or the proto-fascist right. Democratic mildness undoubtedly humanizes life, eliminating the cruelties of aristocratic conventions and providing a place for natural sentiments, especially within the bosom of the family. But even the family is radically transformed by the democratic principle. The ties between parents and children are democratized and are thus made "sweeter" and more "natural," but they risk finally being thoroughly democratized in a manner that dissolves them or empties them of substance altogether. The family risks becoming a "contractual" arrangement devoid of sufficient hierarchical or authoritative influence. Hence democracy completes its revolutionary work, pitting nature against nature.

So what do Manent and Tocqueville recommend? Are we left to contemplate and to bemoan the paradox of democracy as an order where nature inexorably undermines itself? Is there a political alternative to modern democracy which offers a way out of this seemingly cruel impasse? The answer is both

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

no and yes. For Manent and Manent's Tocqueville, justice and prudence demand unhesitating loyalty to liberal or constitutional democracy. In his moving concluding section of the book, Manent criticizes democracy's two main enemies—its stubbornly unreflective reactionary opponents and its far more numerous and, therefore, dangerous "excessive or immoderate friends."

The reactionaries who reject the progress of democracy "do not know what they are doing or what they want." They fail to appreciate the ways in which their own thoughts and sentiments have been transformed by the democratic tempest. Their dream of a reactionary utopia, where "natural and necessary inequalities" are restored, is paradoxically based upon a democratic prejudice that allows them to exaggerate their knowledge about the true nature of man. In the French and European context, Manent clearly highlights the once significant, but now minuscule, band of reactionaries who failed to heed Tocqueville's advice that the aristocratic party should educate democracy by correcting its faults and by working to preserve those predemocratic "contents of life" which democracy threatens but which are indispensable to its well-being. "It is true that democracy is in a very real sense the enemy of human grandeur, but the enemies of democracy are much more dangerous enemies of this grandeur."

The excessive friends of democracy are its most dangerous and disingenuous enemies. They claim to be merely friends of real liberty and genuine equality. But they fail to realize that liberal democracy is compatible with the "nature" of man precisely because it limits itself to protecting formal liberty and not to using government to actualize the democratic dogma in every aspect of personal and social life. The obstinate desire to realize the democratic abstraction, without respect for those compromises, inheritances, and persisting natural and conventional inequalities that characterize liberal democracy, is precisely an invitation for the unprecedented modern expression of despotism that we call totalitarianism. Just as modern democracy as a social state cannot be classified within the classical cycle of regimes, so totalitarianism is an eminently modern and "democratic" phenomenon whose magnitude, perversity, and humanitarian pretensions radically distinguish it from premodern tyranny.

Tocqueville shows that there is one alternative for friends of human liberty and dignity. They must exercise an art of liberty whose central feature is the deliberate cultivation of a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

science of associations, a political art that preserves local liberties and mediating structures between the "sovereign" individual and the "central power," and that gives freedom and moral support (but not state establishment) to a religion that sets limits to unencumbered human willfulness.

ONE of the strengths of Manent's sobering analysis is that he clearly adumbrates the unfinished and unfinishable character of this noble and necessary art. This recognition can help restore a sense of measure to our sometimes inflated contemporary political expectations. For American conservatives who are natural recipients of Tocqueville's teaching, a salutary inference can be drawn. There can be no permanent conservative "revolution" that will cure the democratic propensity toward disassociation, radical individualism, and reliance on the impersonal power of a central power that alone claims to speak for the "general will." Nor should conservatives forget that American religion is already an at least partially democratized religion, as Manent brilliantly shows in his analysis of the transformation of Puritan America into liberal America.

But, despite a perhaps excessive note of pathos, and a tendency to underestimate liberal democracy's own internal resources, this book suggests that there is no reason to despair, even if intellectual honesty demands that we recognize the illusory character of much of the modern faith in progress. There is dignity and nobility enough in the necessary task of reflection on the mirror that Tocqueville holds up to us and in the exercise of a political liberty that allows us to escape that ultimate degradation, called by Tocqueville, "democratic despotism."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Whose history?

MORTON KELLER

DURING the past year or so the *kulturkampf* between political correctness and more traditional values has shifted from literary studies to American history. Flare-ups have occurred over Smithsonian exhibits dealing with the American West and with the dropping of the atomic bomb and, most notably, over last year's *National Standards for United States History*.

It is no great mystery why this should be so. A nation's history is a natural battlefield for the clash of deeply held cultural values and beliefs. The furor over the character and meaning of the American past started with the cultural fissure that opened up during the 1960s, and it has been deepened by the mounting social and economic anxieties of the past quarter of a century. Those inclined to look benignly on the national character seek in its history confirmation of their beliefs; so too do those who have a darker view of the American experience.

Which of these clashing perceptions colors the high-school history texts from which (it is assumed) American adolescents derive their sense of the American past? Both *Molding the Good Citizen*† and *Lies My Teacher Told Me*‡ take on that question. Their answers differ only in degree: 180 of them.

Molding the Good Citizen, by Robert Lerner, Althea K. Nagai, and Stanley Rothman, all affiliated with the Center for the Study of Social and Political Change at Smith College, dissects 15 high-school American history textbooks, three each from the 1940s, 1950s, 1960s, 1970s, and 1980s. The authors subjected these texts to both qualitative and quantitative analysis, using a coding scheme designed to extract the content of the textbooks' character: that is, who and what they talk about and

† Praeger. 187 pp. $17.95.
‡ The New Press. 372 pp. $24.95.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

their attitudes—positive, neutral, or negative—toward their subjects. Their conclusion was that the texts, regardless of decade, reflect a "liberal-Progressive" view of American history, one that has dominated American education since the 1930s. The emphases of this perspective have changed over the decades: from Popular Front economic collectivism in the 1930s and 1940s to the class-race-gender triad that has dominated since the 1960s. But there has been an underlying consistency of orientation.

THE authors' method has the strengths, and the weaknesses, of straightforward content analysis: It yields substantial qualitative evidence, which is, though, not very well attuned to ambiguities and nuances of tone. Their conclusions at times are all too obvious: "We find that American history textbook authors transformed the texts from scarcely mentioning blacks in the 1940s to containing a substantial multicultural (and feminist) component in the 1980s."

But—and this is revealing—much of this increase consisted of what the authors call "filler feminism"—more pictures, more words, but not necessarily more descriptions of the things that notable women *did*. The same can be said for the treatment of Indians and blacks. "History by quota," in which sheer presence and portrayal—particularly in terms of the injustices that these groups suffered—has primacy over their significance as players in the drama of American life.

The authors uncover other tidbits of political correctness. Columbus was notably transformed from a good to a bad fellow. At the same time, Indians evolved not only into Native Americans but from "naked savages in their miserable huts" to peaceful Arcadians, democratic and collective, at one with nature.

The authors find that there has been little change in the treatment of American business and businessmen since the 1930s, now as then denigrated and downplayed. Presidents continue to have a prominent place in history texts, but positive and neutral references declined from 61 percent of the total in the 1940s to 29 percent in the 1980s. George Washington and Andrew Jackson in particular have come under a cloud, the former in part because of his slaveholding, the latter wholly because of his negative attitude toward Indians.

Such, in brief, is the triumph (the authors would say the treason) of the progressive educators, which is reflected, they note *en passant*, in the *National History Standards*. Glumly

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

they tote up the cost of this long-term development: a decline in the shared knowledge, and sense of the relative importance and unimportance of past events, that in their view is necessary if high-school history teaching is to foster a meaningful sense of civil identity in the students who are exposed to it.

LIES My Teacher Told Me, by James Loewen, couldn't have a more different take. It examines a dozen textbooks, published between 1974 and 1991. Only one, Todd and Curti's *Triumph of the American Nation* (and even so, a later edition), was also on *Molding the Good Citizen*'s list. Still, the texts may be presumed to be more similar than dissimilar. That the two studies nevertheless come up with such different readings suggests how deep is the cultural gulf between the nation's conservative and countercultural views.

Loewen, a professor of sociology at the University of Vermont, starts from the premise that high-school texts are the source of the widespread distaste for history among high-school students. Why? Because they are dull, overlong, and, most of all, irrelevant and biased—or, as he prefers to put it, full of "lies." He, like his competitors, is convinced that his texts reflect an agenda—but one very different from Lerner and his colleagues' "liberal-Progressivism." Unadventurous publishers, standpat school boards, local pressure groups, and overworked and uninformed teachers have conspired to produce texts that bore students into passive acceptance of the status quo. They have done this by a judicious mix of stultifying prose, anodyne formulations, and most of all, a feel-good view of the American past which endlessly repeats bromides and suppresses the darker truths of our national history.

Loewen makes his case not by quantitative analysis but by a guided tour of what is wrong with the content of these texts. At times, his are valid criticisms of the books' limitations. But all too often, in his search for the politically correct and the viscerally stimulating, he flies off into the Empyrean, as when he finds it "moderately" likely that "Afro-Phoenicians" not only made it to the New World but did great things there. Columbus, needless to say, gets short shrift; native peoples get very long shrift indeed. Economic opportunity in America is a tale more to be scoffed at than told. American-led multinationals are still *über alles* in Loewen's view of the modern world economy, recent experience to the contrary notwithstanding. Social security is simply a system to transfer wealth from the less well off to the more well off.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

His book offers a set of "truths" that are, shall we say, not beyond controversy: "Economically, we are the bane, not the hope, of the world"; "U.S. history is no more violent or oppressive than the histories of England, Russia, Indonesia, or Burundi—but neither is it exceptionally less violent." These, he appears to believe, are the sorts of "truths" our students need to know.

Recent history texts may indeed be far from Loewen's rarefied state of historical consciousness. But, as Lerner and his colleagues amply demonstrate, they are far more sensitive to the new perspectives, particularly those involving race and gender, that have swept over American historiography in recent decades.

IN the end though, neither of these books comes to grips with the real problem of grade- and high-school history teaching. We are not going to return to a view of the American past as defined by an overwhelmingly white Anglo-Saxon Protestant historical profession; and a good thing, too. But if the new history, with all its promise of a fuller, more inclusive understanding of American society, is presented in the adversarial and condemnatory tone that Loewen seems to want, that would be a remedy not a bit better than what it seeks to cure.

It is essential that young people be taught their country's history in a manner that gives them a sense of national identity and pride, as well as the capacity to be critical and comprehending. This will not be attained by altering the content of texts in ways that would satisfy Lerner et al. Nor will it be met by the kind of agitprop Loewen proposes, in which American history becomes an all but unrelieved chamber of horrors. Parents and school boards wouldn't stand for it; students will be rendered bored and cynical by it; and besides, it just isn't the whole (or even the greater part) of the history of the American people.

The experience of the *National History Standards* is relevant here. Supporters point to the rich fabric of social and cultural history that the *Standards* brought to the grade- and high-school curriculum; detractors point to the political correctness that runs through them. Both are right. The answer lies not in one side or the other winning but in an ongoing process of adjustment and modification, in which historians, teachers, administrators, publishers, and the public have their say. A process that, in fact, is currently under way.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

JASON W.A. BERTSCH is assistant editor of *The Public Interest.*

JAMES BOWMAN is American editor of the *Times Literary Supplement* and movie critic of the *American Spectator.*

STEVEN FLANDERS is a court administrator and free-lance writer in Pelham, New York.

WILLIAM A. GALSTON is a professor in the School of Public Affairs at the University of Maryland and director of the Institute for Philosophy and Public Policy. He was Deputy Assistant to the President for Domestic Policy from January 1993 to May 1995.

MORTON KELLER is Spector Professor of History at Brandeis University. He is currently writing a history of Harvard since 1933.

YALE KRAMER is a clinical professor in the Department of Psychiatry at the Robert Wood Johnson Medical School. He is also a practicing psychoanalyst and a member of the faculty of the New York Psychoanalytic Institute.

JAY P. LEFKOWITZ is a lawyer in Washington, D.C. He was a junior member of Milken's defense team and continues to represent others sued by the government for actions related to the securities industry, including some served by Fischel who are mentioned in *Payback.*

MICHAEL LYNCH and KATHERINE POST are public policy fellows at the Pacific Research Institute, a think tank in San Francisco.

DANIEL J. MAHONEY is chairman of the Department of Politics at Assumption College in Worcester, Massachusetts, and author of books on Raymond Aron and Charles de Gaulle.

NORMAN MATLOFF is a professor of computer science at the University of California, Davis.

STEPHEN F. SMITH is a lawyer and an adjunct fellow at the Center for New Black Leadership. He clerked for Justice Thomas from 1993 to 1994.

IRWIN M. STELZER is director of regulatory policy studies at the American Enterprise Institute.

W. KIP VISCUSI is professor of law and economics at Harvard Law School. JAMES T. HAMILTON is assistant professor of public policy, economics, and political science at Duke University.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED